SUPERVISION OF THE CONDUCT OF ELECTIONS AND RETURNS

With Special Reference to Pennsylvania

SUBMITTED TO THE POLITICAL SCIENCE FACULTY
IN PARTIAL FULFILLMENT OF THE REQUIRE-
MENT FOR THE DEGREE OF DOCTOR
OF PHILOSOPHY

by

EDWARD BATES LOGAN

1927

Philadelphia

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PREFACE

The election process consists of several steps. Candidates must be presented from which the voters make their choices, a determination must be made of the properly qualified voters, the polls must be conducted to allow the voters to freely cast their ballots, and the vote must be counted. It is with the two latter steps of the process, the conduct of the polls and returns, that this thesis is concerned. The study centers around the election system of Pennsylvania primarily, with references to other states for comparative purposes.

The aim throughout is to define the location of responsibility for the enforcement of the state election laws. The powers and duties of election authorities in each political unit, state, county, city, and precinct, are examined and the extent of their supervision over the conduct of elections and returns set forth.

It was found that in Pennsylvania, as well as in other densely populated states, the bulk of the responsibility for the enforcement of election laws rests with the precinct election officers. Especially is that true where the elective method of securing precinct officials prevails. Because the election officials are the key to fair elections a large share of the study has to do with those officers.

Some conclusions are derived from the study. Among others it was found that too great reliance upon bipartisanship to secure the proper supervision exists. Bipartisanship may operate successfully where opposing parties stand guard but the method breaks down all around in one party regions such as in many Pennsylvania cities. Non-partisan boards in such one-party districts offer greater promise.

It was found also that legislatures have indulged freely in the practice of enacting piecemeal legislation to correct outstanding abuses rather than to prepare carefully planned constructive measures. It is not to be taken for granted that legislatures are continually seeking to improve the election system. Legislators com-

ing from a boss-controlled region may find a bad system more to their liking, or may be ordered not to tamper with a system which lends itself easily to the control of elections.

In Pennsylvania, it was found that the election system is decentralized to an extreme degree. In Pennsylvania cities, especially, does greater centralization in the system need to be brought about. Non-partisan boards of elections, appointed by the governor, such boards to have the power of appointment and supervision of precinct election officers, promise better results.

The author takes this opportunity to thank those who contributed in the preparation of this study. He is especially indebted to Professor Clyde L. King, under whose helpful direction this study was made and to Professor James T. Young for his valuable criticisms. Special gratitude is expressed to Professor Roland S. Morris, Hon. Clinton Rogers Woodruff, and T. Paxson for their helpful suggestions. And my thanks go to that large group, the members of which cannot be mentioned here, who so generously supplied information by mail and otherwise.

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CHAPTER I

The Development of Supervision of the Conduct of Elections and Returns

The elective process, it is well known, consists of several steps. Candidates must be presented from which the voters may make their choices, a determination must be made of the properly qualified voters, the polls must be conducted to allow the voters to freely cast their ballots, and the vote must be counted.

A legislature in ordering an election system must strengthen all links in the process, else proper elections will not result. It would be of little value to perfect the registration system, the conduct of the polls, and the method of making returns, if good candidates were not put forth for the voter's choice. It would avail little to perfect the nominating system, and allow the choice from among the candidates to be determined by false registrants or by repeated voting. It would similarly be unwise effort to concentrate upon the nominating and registration systems and neglect to assure that the voter could go to the polls and cast a free uninfluenced choice. And, lastly, all the foregoing steps would come to naught if a proper count of the votes were not assured.

A great deal of attention has been given to the nominating process by students of elections, and legislatures have dealt at length with the problem. The registration problem, within the last quarter century especially, has demanded consideration and in states with cities of dense populations elaborate systems have been worked out.

The latter steps of the elective process, the conduct of the polls, and the count of the vote, have, comparatively speaking, been neglected. Legislatures have placed upon the statute books detailed regulations for the conduct of the polls and count of the vote, but little has been done in careful research to determine the results secured. For the most part it has only been when

fraudulent voting, falsifying returns, and other abuses mounted that attention was given, and attention was consumed in most cases in efforts to find an immediate remedy for the abuses in question instead of reaching out to survey the whole problem.[1]

Scope of This Study

It is with these last steps in the election process—the conduct of the election, and the making of returns—that this study will deal. It will be the intent throughout to make clear the form of supervision devised by the legislature to insure the proper functioning of the system established, and to go as far as possible in examining the results secured under the methods of supervision which have been provided.

The study will deal primarily with the election system of Pennsylvania, with attention given to the election systems of other states with dense population for comparative purposes.

Development of Features of the Present System in Pennsylvania

At the outset it seems necessary for clearness to go back to examine the development of the features of our present system of supervision of the conduct of elections and returns in Pennsylvania, to examine forms which have been replaced, and to set forth the reasons for the changes and developments.

Some of the provisions of law now on the statute books in Pennsylvania regarding the conduct of elections and returns were enacted as early as 1839. None now on the statute books precede that date.

Little attention was given to elections by legislators before that time. The Constitution of 1790 provided merely that electors should be free from arrest during their attendance at elections, that elections should be free and equal, that votes should be cast by ballot, and a brief clause stating the qualifications for voting.[2]

An act of 1799 of considerable length established an elective method of securing election officers, made rules for the count

[1] As in the Constitutional Convention of Pennsylvania, 1873, when the present system of choosing election officers was inserted in the Constitution to prevent the continuance of election frauds in Philadelphia.

[2] Constitution of Pennsylvania, 1790, Article III, Sections 1, 2, 3; Article IX, Section 5.

of the vote, and placed a penalty upon electors casting more than one ticket or anyone taking a reward for his vote. Also a penalty was provided for election officers upon whom fraud could be proven.[3]

Because of the rapidly growing population in Philadelphia an act was passed in 1814 giving election inspectors in Philadelphia the authority to choose six citizens to assist them in conducting the election.[4] By 1824 it was found necessary to divide Philadelphia into fifteen wards and to provide for the election of two inspectors in each,[5] and soon thereafter the inspectors in each ward were allowed to choose two clerks and one judge, the inspectors to have full freedom of choice so long as persons with voting qualifications were chosen.

When it was found necessary to divide Pittsburgh into four wards in 1829, it was provided that the inspectors of election, one in each ward, should be chosen by the electors, and that each inspector should choose two judges and two clerks in his ward.[6] The inspectors had full freedom of choice in selecting qualified voters for the positions. Some qualifications were provided for those serving as election officers by an act of 1838, the chief of which was a provision forbidding any candidate for office or any person holding an office under general or state government to serve.[7]

Until the enactment of the Act of 1839 no attention had been given by the legislature to the casting of the ballots and returns except an act in 1817 providing methods to be followed in contested elections.[8]

It can be seen in examining the laws relating to elections in that period that the legislature provided a method for placing election officers at the polling place, and gave such officers practically full freedom in conducting the elections and counting the votes. If any supervision was forthcoming at that time it had to be derived from the voters of the election district.

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[3] Laws of Pennsylvania, Smith, Vol. 3, pp. 341, 46, 49, 51.
[4] Laws of Pennsylvania, 1813–14, p. 98.
[5] Laws of Pennsylvania, 1824–25, p. 130.
[6] Laws of Pennsylvania, 1829–30, p. 13.
[7] Laws of Pennsylvania, 1837–38, p. 598.
[8] Laws of Pennsylvania, 1817–18, p. 259.

Accounts of elections during that period bear evidence that at times elections were not what was desired, especially had undesirable elections been experienced in Philadelphia. Elections of the following description were not unusual during the first quarter of the century:

"Platforms of wood were erected in front of each polling window so that the voter might be elevated to a level with the election officers. When the population of the ward was large and the election an important one there was often great struggling among the voters to reach the polling window, especially during the last hours of voting. Pushing and jostling led to angry recriminations and finally to blows, and the strife would soon spread out to the mass of the people in the street, during which excitement fists, canes, umbrellas, or whatever instruments of offense where handy, were used, while hats, coats, and apparel were torn to rags. And when the melee was over the combatants, bloody with blackened eyes and torn and disheveled hair, would manage to get out of the throng and sneak homeward."

"However," the account reads, "there was no recorded instance of any person having been killed in an election fight in Philadelphia between 1800 and 1825, nor for many years afterwards." [9]

A report was given in the Constitutional Convention of 1837 that, before the registry law was passed, disturbances, outrages, turbulence, violence, and bloodshed existed in the city (Philadelphia) on election day, even murders being committed.[10]

The registry law of 1836 was an attempt to satisfy the demand for relief from the increasing fraudulent voting in Philadelphia.[11]

Bipartisan Representation on Election Boards Introduced

Moreover, with the increasing party spirit every method was resorted to in order to secure the advantage and election boards did not escape. The Act of 1839 in one of its provisions aimed to put an end to the increasing struggle between the parties to secure control of the election boards by providing a method of

[9] History of Philadelphia, Scharf, Wescott, Vol. 2, p. 937.
[10] Mr. Stevens, Debates of the Constitutional Convention of Pennsylvania, 1837 (Vol. 3, p. 37).
[11] Laws of Pennsylvania 1835–36, p. 604.

election to secure bipartisan representation among the election officers at the polling place. The method, the one now in use, allowed the voters of the precinct to vote for one judge and one inspector of elections, the person having the greatest number of votes as judge to be elected to that position, and the two inspectors receiving the highest number of votes to be elected as inspectors.[12] For the first time in Pennsylvania the bipartisan method of supervision was adopted to aid in securing fair elections.

The forms of fraud which had developed prior to 1839 can be seen by the penalties provided in the Act of that year. Penalties were provided on election officers for rejecting qualified votes or accepting unqualified, for prying into tickets, and for altering or defacing tickets.[13] Similarly penalties were provided for electors for voting out of their proper district, for voting in more than one district or voting more than once, for receiving a reward for their vote, and for offering forged certificates.[14]

The prevailing method of securing election officers at that time was by the elective method. The laws of New York provided for the election of two inspectors in each voting district.[15] The laws of New Jersey of 1846 provided for the election of a judge of election in each voting district, who with the assessor and collector, both elective, constituted the election board, the judge being chairman of the board.[16]

However, Pennsylvania was foremost in making use of the bipartisan method of supervision. Such a method was not adopted in New Jersey until 1876,[17] when a system identical to the Pennsylvania system was adopted to secure bipartisan representation. The bipartisan method of supervision was adopted in New York in cities, excepting New York City, in 1892 along with the appointive method of securing election officers. In 1896 the appointive method and bipartisan representation were introduced in all cities of the state.[18]

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[12] Laws of Pennsylvania 1835–36, p. 519.
[13] Laws of Pennsylvania 1838–39, p. 542.
[14] *Ibid.*, p. 546.
[15] Laws of New York 1842, Chapter 130, Art. 3.
[16] Laws of New Jersey, Digest 1855, p. 218, Section 22.
[17] Digest of Laws of New Jersey, 1877, p. 339.
[18] Laws of New York, Chapter 909.

Further consideration needs to be given to the Act of 1839 in Pennsylvania. Most of the provisions now on the statute book regarding election officers were enacted in that Act.

Besides the manner of voting for judge and inspectors of election, a provision of the Act gave those officers the authority to conduct all elections, fixed their time of meeting, and allowed the inspectors to appoint two clerks. Another clause provided a method of filling vacancies on the election board on the day of election. Several other provisions imposed penalties for offenses committed by election officers, some of which have already been mentioned. Penalties were imposed upon officers not attending at the proper time, neglecting or refusing to serve, or serving without being qualified.

The Act of 1839 defined in detail the manner of voting. Two of the provisions of the Act, that inspectors should receive votes from electors in their district only, and a provision imposing a penalty for defacing tickets or election papers, still remain a part of the election law of the state.

Supervision by Publicity Introduced

The method of supervision by publicity was inserted into the election system of the state by the Act of 1839, which provided that the inspector should call out aloud the name of the elector receiving a ballot, which name was entered by the clerks, and the person's name checked as having voted on the list of taxables. The requirement that the name be called out aloud obviously was designed to give information to the party members of the board and voters of the district upon which they could make challenges.

The Act of 1839 dealt also with the method of counting the vote and several of the provisions still remain a part of the election law. The present provisions requiring the returns to be signed by the election officers, regarding imperfect certificates, number of returns to be made, and disposition of returns, were enacted in the Act of 1839. Further than that the Act required the inspectors to take out the tickets one by one in the presence of the judge and read aloud the vote, the clerks entering the vote as read. Again the publicity method of securing a proper reading of the vote and proper tally were adopted.

It can be seen that reliance for the proper conduct of elections and making of returns was placed by the legislature upon the district election officers. Some powers and duties were given to county commissioners which related almost entirely to furnishing supplies and a list of taxables.[19] No supervisory powers were given. Similarly no supervisory powers were given to state authorities. The only mention of a state authority in the Act of 1839 was a provision allowing the Secretary of the Commonwealth to receive certain returns.[20] It is to be noted also that no supervisory powers were given to city authorities.

Since the election officers constituted a sphere unto themselves, inquiry needs to be made to see what assurance there was that compliance with the provisions of law would be made.

Reliance upon Bipartisanship and Publicity.

The legislature relied upon two features: bipartisanship and publicity; bipartisanship in the election board, and publicity in the determination of an applicant's right to vote and in the count of the votes.

The first method presupposes the existence of active parties which will insure that the full quota of their members are on the election boards. The second method requires for its successful operation an electorate divided politically which can be depended upon to make challenges or insure a fair count, or an electorate actively interested in maintaining fair elections. Also the latter method requires a large element of personal acquaintanceship among the voters for its successful operation.

At the time of the adoption of the Act of 1839, the electorate in Pennsylvania was evenly divided politically.[21] Although greater inequality was shown in Philadelphia, the only city of considerable size at that time, still strong opposing parties faced each other.[22]

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[19] Laws of Pennsylvania, 1838–39, p. 532.

[20] *Ibid.*, Section 89.

[21] In the election for Governor, 1838, Democratic vote was 127,825; Anti-Mason vote 122,321; in 1841 Democratic vote was 135,504, Whig vote 113,473. (Pennsylvania State Manual 1925–26, p. 399.)

[22] Mueller, Henry R., Whig Party in Pa., Studies in Hist., Econ., and Public Law, Columbia Univ., Vol. 101, p. 61, 1922.

For the most part rural conditions prevailed throughout the state, only two cities, Philadelphia and Pittsburgh, having a population exceeding 16,000,[23] the whole state having a density of 38.5 per square mile.[24] Philadelphia with a population of 93,665 and Pittsburgh with 38,931, knew little of congested conditions.

However, in Philadelphia and to some extent in Pittsburgh impersonal relations were developing and the problems at the polling place were increasing, especially the problem of determining the right to vote. The registry law of 1836, already referred to, was an attempt to meet the difficulty, and the bipartisan election board provided by the Act of 1839 was another attempt. The publicity feature was one that had been found to operate successfully under the rural conditions which had existed throughout the state prior to that time, and the legislature of 1839 was holding on to a method which former history recommended.

Population Changes

The chief factor with which election administration has had to deal has been the increase of the population and especially the congestion of that population in small areas. Not much difficulty is experienced by the sparsely populated states in maintaining fair elections.

Because the increase of population and the congestion in small areas has been the chief factor in Pennsylvania and other states in making the conduct of elections more difficult, a clear idea needs to be had of what the changing population situation has been. Some of the later developments in election law can only be understood when the population changes are known.

The following table shows the increase of population in Pennsylvania from 1790 to 1920:

Pennsylvania [25]

Decade	Increase	% of Increase
1790–1800	167,992	38.7
1800–1810	207,726	34.5
1810–1820	239,367	29.5
1820–1830	298,775	28.5

[23] Census Report, 1920, Vol. I, p. 85.
[24] *Ibid.*, p. 31.
[25] Census Report, 1920, Vol. I, p. 22.

Decade	Increase	% of Increase
1830–1840	375,800	27.9
1840–1850	587,753	34.1
1850–1860	594,429	25.5
1860–1870	615,736	21.2
1870–1880	760,940	21.6
1880–1890	975,222	22.8
1890–1900	1,044,002	19.9
1900–1910	1,362,996	21.6
1910–1920	1,054,906	13.8

It is to be noted that in each ten-year period, excepting the last, there was an increase over the preceding ten-year period, with an especially heavy increase between 1830 and 1840, beteween 1870 and 1880, and between 1890 and 1900.

In other words the density of the population per square mile changed as follows:[26]

1790 ..... 9.7	1860 ..... 64.8
1800 ..... 13.4	1870 ..... 78.6
1810 ..... 18.1	1880 ..... 95.5
1820 ..... 23.4	1890 ..... 117.3
1830 ..... 30.1	1900 ..... 140.6
1840 ..... 38.5	1910 171
1850 ..... 51.6	1920 ..... 194.5

And next it is important to know the distribution of the population. The following table shows the population resident in cities of 8,000 or more at each census from 1850 to 1920, the number of such cities, and the percentage of that population to the entire population. Since 1900, it is to be noted, practically half the population has lived in cities of 8,000 or more.

Census Year	No. Cities	Population in Cities of 8,000 or More	Percentage Total
1850	5	504,737	21.8
1860	7	692,338	23.8
1870	20	1,166,292	33.1
1880	28	1,498,740	34.9
1890	44	2,152,051	40.9
1900	52	2,817,491	44.7
1910	82	3,821,153	49.8
1920	92	4,510,154	51.7

[26] Census Report 1920—Vol. I, p. 22.

Of the seven cities in 1860 having a population exceeding 8,000, with a total population of 692,338, 23.8 per cent of the total population, one city—Philadelphia—contained 565,529 of that number or 81.5 per cent. Three cities, Philadelphia, Allegheny, and Pittsburgh contained 644,448 or 93 per cent of the total. In 1870 of the 20 cities with a population exceeding 8,000 and a total population of 1,166,292, 33.1 per cent of the total population, Philadelphia contained 674,022 of that number or 63.1 per cent. The three cities, Philadelphia, Allegheny, and Pittsburgh, contained 813,278 or 76.1 per cent. In 1880 of the 28 cities with a population exceeding 8,000 with a total population of 1,498,740, 34.9 per cent of the total, Philadelphia contained 847,170 or 56.5 per cent. The three cities aforementioned had a combined population of 1,082,241 or 72 per cent. Of the 44 cities in 1890 having a population of 8,000 or more containing 2,152,951 or 40.9 per cent of the total population, Philadelphia had 1,046,964 of that number or 48.6 per cent. The three cities had a combined population of 1,390,568 or 64.6 per cent of the total.

In 1900 Philadelphia, with a population of 1,293,697, had 45.9 per cent of the population of the 52 cities exceeding 8,000. The 52 cities had a total population of 2,817,491 or 44.7 per cent of the total population. The two cities, Philadelphia and Pittsburgh (Pittsburgh then included Allegheny) with a population of 1,745,209 had 61.5 per cent of the population in cities of 8,000 or more.

In 1910, Philadelphia with a population of 1,549,008 had 40.5 per cent of the population, 3,821,153, in the 82 cities of 8,000 or more population. Philadelphia and Pittsburgh with a population of 2,082,913 had 54.5 per cent of that population. In 1920 Philadelphia, with a population of 1,823,779 had 40.4 per cent of the population, 4,510,154, in the 82 cities of 8,000 or more. Philadelphia and Pittsburgh with a population of 2,412,122 had 53.4 per cent.

Furthermore, Pennsylvania in 1850 had but two cities with a population exceeding 25,000. In 1870 four cities had exceeded that population; in 1880, 9; in 1890, 11; in 1900, 17; in 1910, 19; and in 1920, 20.

Enough statistical facts have been given to indicate the changed

conditions under which elections had to be conducted. The conditions at present, and for many years preceding, are vastly different from those existing in the early years of the state. From conducting elections in an essentially rural population the problem has changed until it fairly can be said, because the vote of urban centers determines the outcome of elections,[27] that the problem is now and has been for many years, surely since 1890, one of conducting elections in a dense, urban population with its attendant complexities.

If the facts of these rapidly changing conditions in the state are kept in mind the kind of legislation since the law of 1839 will be more easily understood. And thus equipped a sounder basis should be had to draw conclusions as to whether legislators were taking cognizance of the new conditions and adjusting legislation thereto, or whether there was too great an inclination on their part to cling to the old methods, which operated successfully under the old conditions, and attempt to satisfy the demands for a better system by piece-meal remedies.

Defects in the Bipartisan Method of Supervision

There is no evidence that the legislation of 1839 materially improved elections. Election frauds in Philadelphia had reached a point in 1866 which moved the Legislature to pass an act designed to prevent frauds in the city. It was felt that the system of securing bipartisan election boards was not producing the desired results. The outstanding objection by those in close touch with political affairs was that the system in Philadelphia, especially, did not secure a bipartisan election board. The legislature aimed to correct such a situation by an act providing that upon the petition of thirty citizens of the ward setting forth that in any election division the inspectors of election or the return inspectors were of the same political party, the Court of Common Pleas, if it finds the charges true, should set aside the election of the entire board of election officers and appoint a

[27] 32 per cent of the total vote cast at the 1924 presidential election in Pennsylvania was cast in Philadelphia and Allegheny Counties. Of the vote obtained in the State by the successful candidate, 35 per cent was obtained in Philadelphia and Allegheny Counties.

new board.[28] The method for maintaining a bipartisan board then adopted is the one now in effect. It is a method which did not secure the desired results at that time and is inoperative at present. In 1868 it is reported that in every election district in Philadelphia, the Republican machine had the majority of the board and a minority of its own choice.[29] While such a statement cannot be made for the whole city of Philadelphia at present it can be said that it is true, as will be seen, of a great many wards in the city.[30]

The Republican organization was able to control the election boards in Philadelphia, although the voting population in the city and the wards thereof was quite evenly divided politically. Of the total vote for Governor in 1869 the Republican candidate secured 51,202 and the Democratic candidate 46,802. In the wards of the city the vote was divided as follows:

Ward	Republican	Democrat
1	2,276	1,541
2	2,328	2,863
3	961	1,802
4	935	2,352
5	885	1,881
6	803	1,267
7	2,144	1,657
8	1,367	1,379
9	1,495	1,322
10	2,547	1,357
11	847	1,546
12	1,199	1,389
13	1,878	1,476
14	2,181	1,555
15	3,717	2,507
16	1,596	1,593
17	1,038	1,659
18	2,849	1,713
19	3,045	2,386
20	4,495	3,646
21	1,321	914
22	2,006	1,093
23	2,039	1,497
24	1,848	1,758
25	1,093	1,481
26	2,712	1,653
27	1,016	812
28	881	703
	51,202	46,802

[28] Laws of Pennsylvania, 1866, p. 969.
[29] Old Time Notes of Pennsylvania, A. K. McClure, p. 237.
[30] *Infra,* pp. 62–63.

The figures in the above table show that in ten wards the Democratic party had a majority of the votes, yet it is reported that the election boards were controlled by the Republican organization.

That such a situation existed should be cause for reflection by those who now assert that one-party election boards are due to the one-party situation existing among the voters of the districts. The knowledge that one party controlled the election boards, when the voters were nearly evenly divided, should prompt an inquiry into the method of selecting those boards to determine whether the system is responsible for the undesired results.

Need for Determining Right to Vote

At this stage in the history of Pennsylvania elections, as evidenced by the registry laws of 1868 and 1869, the first of which was declared unconstitutional, attention was concentrated upon reducing election frauds by devising methods for determining the right to vote.

The need for such laws had for many years been evident. Voting by repeaters going from poll to poll was common in the large cities. At a special senatorial election in Philadelphia in 1871 it is related that large bodies of " repeaters " were organized, many of them from the city outside of the senatorial district, and some from Delaware. There were two or three scores of gangs of " repeaters," it is reported, each gang containing from eight to twelve men, all expected to vote at from twenty to thirty different places, adding from two to three thousand votes for the Republican candidate.[31]

In New York City in the election of November 1867, it is reported, that thousands of illegal registrations were made with the view of having those fraudulent names voted by repeaters. " The fourth, sixth, eighth, sixteenth, and twenty-first wards especially were overrun with repeaters." [32] The *New York Tribune* in an editorial on the day of the election urged the Republicans of the city to serve as challengers at the polling places, asserting that

[31] Old Time Notes of Pennsylvania, A. K. McClure, p. 242.
[32] New York Election Frauds and their Detention, J. I. Davenport, p. 100.

"over thirty-five hundred voters have been registered in the fourth, over four thousand in the sixth ward," and that "there are not six thousand legal voters living today in both of those wards." The editorial urged that "fearless challenging will drive from the polls, baffled, a thousand of those who mean to vote today in both of those wards." [33]

Voting by repeaters was an evident method of fraud, and naturally public sentiment turned against the practice and aimed to devise preventive laws.

Frauds committed through stuffing the ballot boxes by the election officers, or by means of falsifying the returns, were for the most part done in secret, and for that reason were not so subject to public condemnation. It is very likely that a large share of the fraudulent vote attributed to "repeaters" was due to the other kinds of frauds.

The statements of Tweed shortly before his death to a special committee of the Board of Aldermen stands as testimony that returns were falsified on a large scale. Such statements were to the effects that election officers had orders "to count the ballots in bulk, or without counting them to announce the result in bulk," and that orders to falsify the results were given in every ward of the city.[34] In the contested state Senatorial election of 1872 in Philadelphia the Democratic candidate, returned as defeated by 891 majority was after the recount declared elected by 210 majority.[35]

While the registry act of 1869 was abolished by the Constitutional Convention of 1873, it was not due to the feeling that the need for a registry law did not exist, but to the opposition to the manner in which the system operated. It was felt that the canvassers exercised arbitrary powers and many favored no registration rather than allow canvassers, often corrupt, to leave names from the list or add names at will.[36]

The problem of forming a proper registry law has persisted

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[33] *New York Tribune*, No. 5, 1867.
[34] New York Election Frauds, p. 274.
[35] Old Time Notes of Pennsylvania, A. K. McClure, p. 312.
[36] Debates of the Constitutional Convention of Penna., Vol. 5, 1873, p. 164.

until the present time, and although extensive laws have been passed on the subject the problem still remains.[37]

Provision for Overseers of Election

By an act passed in 1868 by the Pennsylvania legislature, permitting the Court of Common Pleas upon the petition of at least five citizens of the county to appoint two persons for any district of the county to act as overseers at the polling places, the legislature recognized that satisfactory supervision of elections at the polling places was not obtained. It was hoped that overseers would be requested for those districts where fraud was most prevalent to supervise the activities at the polling places. The petitioners were required to state under oath that they believed fraud would be practiced at the election about to be held, and the court was given the freedom of picking overseers from the county to send into any election district.[38] The overseers were required to be of opposite political parties, again relying upon bipartisanship to prompt a close scrutiny of activities at the polling places.

The method of supervision by means of overseers still remains a part of the law but changed somewhat from the Act of 1868. Petitions for overseers now must be made by five voters of the election district, and persons appointed as overseers must be residents of the district.

The change to the district requirement was made in the Constitutional Convention of 1873, and was adopted as part of the new Constitution.[39]

It is interesting to note how the Act of 1868 was changed in the Constitutional Convention. Mr. Bailey of Huntingdon made the speech which was instrumental in changing the county requirement for petitioners and those appointed as overseers to a district requirement. His speech was as follows:

"Now just look at it (the old system) a moment. Suppose those two judges, and it is not a violent supposition, desire to override the

[37] See Regis. for Voting in the U. S., Harris, History of Registration in Penna., pp. 39–45.
[38] Laws of Pennsylvania, 1868, p. 35.
[39] Constitution of Pennsylvania, Art. 8, Section 16.

will of the people, or in other words, to commit a fraud upon the ballot box in any particular election district. Perhaps they may not be able to find in that district two men as overseers who will answer their purposes. They may send here to Philadelphia, or they may send to any other place in the Commonwealth, and pick out just such men as will the best answer their fraudulent purpose."

Mr. Buckalew of the 15th district answered that it was the intention of the committee that the persons appointed as overseers should be qualified electors of the district, and inserted the requirement that they should be electors therein.[40]

There was confidence that there would be two persons from the district who would be willing to serve and who were capable and trustworthy. Also that there would be five men willing to ask the courts for overseers if there be any reason to ask for them.[41] The latter problem, be it said, is the one which now prompts the advocates of election reform, as will be seen later, to ask that the system be changed to remove the district requirement and allow appointment of overseers from the county.

It will be shown in a later chapter that the method provided by the Constitution of 1873 has failed as a method of supervision of elections. At present the method is totally inoperative. It is urged at present that the district requirement for petitioners and overseers renders the system unworkable. But examination discloses that the system did not operate during the years from the adoption of the system to the adoption of the Constitution when there was no district requirement. It was asserted in the Constitutional Convention by Mr. Buckalew [42] "that the provision allowing overseers has been in force some four years but is inoperative. Its intended effect and operation have not been realized." [43]

A great deal of the time and attention of the Convention were taken up with the consideration of the method of supervision by means of overseers before it was adopted by the Convention. The amount of attention which was given to a system which had proven unsuccessful stands as evidence that there was great need

[40] Debates of the Constitutional Convention 1873, Vol. 5, p. 51.
[41] Constitutional Convention, Vol. V, p. 190.
[42] Delegate from the 15th District.
[43] Mr. Buckalew, Debates of Constitutional Convention, Vol. V, p. 37.

for supervision at the polling places and that there was general dissatisfaction with the elections as then conducted. Declarations to that effect were made in the convention. Mr. Palmer declared "it has been found simply impossible to hold honest elections in some precincts . . . there are certain infected districts in which the people will not and do not choose proper election officers, and the consequence is that the result of every election in that county (Philadelphia) is held in abeyance until the election boards of such districts make up their minds which way they will make their returns. The votes cast on election day afford no indication at all of what the vote will be when the return judges meet. Returns are held by the election officers for sale. The party who will give the most for the majority will get it; and it frequently happens that the balance of power is held by one or two of these infected districts and the returns come in one thousand, two hundred—or one thousand five hundred majority, one way or the other just as the election officers happen to be bought and paid last. Therefore, it is that some such provision as this (overseers) is an absolute necessity. The elections can only be saved, it seems to me, by some such provision." [44]

Mr. Lilly (delegate at large) reported that "the elections committee endeavored to bring forward before the Convention something to prevent fraud and corruption that the elections of the Commonwealth may be a fair reflex of the opinion of the people . . . there is a largely growing opinion through the Commonwealth of Pennsylvania today that our elections are an entire farce . . . hence we urge this section (pertaining to overseers) believing as we do that this is one of the necessary requisites to insure a fair election and fair returns of the honest votes of the people." [45]

"The two supervisors appointed by the courts in cities," said Mr. Purman (delegate at large), "will doubtless be a higher order of men than are generally elected to hold the elections in the city." [46]

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[44] Const. Conv., V, p. 44. Mr. Palmer from XIII Dist.
[45] Constitutional Convention, Vol. V., p. 61.
[46] *Ibid.*, p. 57.

Appointive Method of Obtaining Election Officers in Philadelphia

In the Act of 1869 special legislation was provided for Philadelphia in which the Board of Aldermen were given authority to appoint the election officers in the divisions of Philadelphia. The appointive method provided by the act was of short duration, lasting only until the adoption of the new Constitution.

Because of the feeling that under such special legislation, as Mr. Buckalew stated in the Convention, " much mischief and evil had been done in Philadelphia and persons disqualified under former laws now swarmed in the election boards," [47] a clause was put into the Constitution providing for the election of the election officers annually throughout the State.

The Elective Method of Obtaining Election Officers Placed in Constitution

The insertion of the provision in the Constitution providing for the elective method throughout the State was due, not to a strong faith in the elective system, but rather to an attempt to correct the situation in Philadelphia which was felt to be due to the appointive method in use there. There was no discussion of the relative merits of the elective and appointive systems in the Convention. It is a noticeable fact, however, that the members of the Convention, in order to secure a fair election in Philadelphia at which the Constitution was to be submitted, adopted the plan of appointing an election commission of five members in the city, and gave them powers to appoint the election officers in the precinct and to supervise the election.[48] Yet the elective method of securing precinct officers was inserted in the Constitution.

The elective system of securing election officers has, with the exception of the period from 1869 to 1873 in Philadelphia, been in force throughout the state from 1799 until the present time. The legislature, as has been seen, has been prohibited from tam-

[47] Debates of the Constitutional Convention, Vol. V, p. 60.

[48] Constitutional Convention, Vol. VIII, p. 712. Because the Assembly had previously provided a method for submission an injunction restraining the commissioners from holding the election was upheld by the Supreme Court. Wells vs. Bain, 75 Pa. 39 (1874).

pering with the system if it should wish to do so, because of its establishment by Constitutional provision. A proposed Constitutional amendment designed to make it possible to substitute appointive for elective election officers, proposed in 1909 was defeated by a vote of 128,287 for the amendment to 194,810 against. The defeat of the amendment was attributed to the work of a group of reformers who maintained that the fundamental principles of democracy were being violated by abolishing the provision of an elective election board and by the opposition of a faction of the dominant political organization which maintained that much more satisfactory results could be obtained by elections.[49]

The method of securing bipartisan representation established by the Act of 1839 was also inserted in the Constitution of 1873. Pennsylvania stands practically alone in placing in its Constitution the method for securing precinct election officers.[50]

Methods of Choosing Election Officers in Other States

The New York Constitution provides that the officers are to be appointed or elected in such manner as the legislature may direct,[51] and such is the practice throughout the states, although the Constitution in several states, notably New York, defines that the election boards shall be bipartisan. It is not likely that the provision establishing the method of securing election officers would have been inserted in the Pennsylvania Constitution had it not been that the members of the Convention wanted to take away from the legislature the power to make special legislation for Philadelphia, which it had done in 1869 by allowing the Board of Aldermen in Philadelphia to appoint the election officers.

It is interesting to note the experiences of the legislature in dealing with the method of choosing election officers where it is not restricted by the Constitution. The experiences of the New York legislature are typical.

[49] Election Reforms, Clinton R. Woodruff, *National Mun. Review*, Vol. V, p. 615, 1916.

[50] An exception exists in Virginia where an appointive system is provided in the Constitution. Constitution of Virginia, Article II, Section 31.

[51] Constitution of New York, Article II, Section 6.

Having passed a law in 1840,[52] providing for an elective method of securing election officers in New York City, the legislature changed in 1842 to an appointive method whereby the Common Council was given authority to appoint the officers.[53]

In 1859 the method of appointment was changed to transfer the appointing power to the Board of Supervisors.[54] Changing again in 1865 the Board of Commissioners of Metropolitan Police in New York City and the Board of Supervisors in Brooklyn were given the power to appoint the district election officers.[55] In 1870 the legislature passed an act providing for the appointment of election officers in Albany by the Common Council.[56] The method of appointment in Albany as provided in the act of 1870 was changed in 1883 to give the appointing power to the Police Commissioners.[57] And in 1892 a Board of Election Commissioners, composed of the Mayor, President of Council, and another member selected by the Council, were given the power to appoint the officers.[58]

In New York City the elective method was again given a trial by the Act of 1870. The elective method was provided for Buffalo by the same Act.[59] The elective method in New York City was of short duration, being replaced by an appointive system in 1872 under which the Board of Police was given the appointive power.[60] In the same year a Board of Election Commissioners was created in Brooklyn and given power to appoint the district election officers.[61]

In 1894 the appointive method of securing election officers for all cities other than New York and Brooklyn, whereby the Mayor was given appointive power, was provided by an Act of that year. By an Act of 1901 a Board of Elections was created in New York City and vested with the power to appoint the election boards.[62]

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[52] Laws of New York, 1840, Chapter 78.
[53] *Ibid.*, 1842, Chapter 56.
[54] Laws of New York, 1859, Chapter 380.
[55] *Ibid.*, 1865, Chapter 740.
[56] *Ibid.*, 1870, Chapter 77.
[57] *Ibid.*, 1883, Chapter 298.
[58] *Ibid.*, 1892, Chapter 171.
[59] *Ibid.*, 1870, Chapter 519.
[60] Laws of New York, 1872, Chapter 675.
[61] *Ibid.*, 1872, Chapter 575.
[62] Consolidated Laws of New York, Chapter 17.

A great deal of experimentation, it can be seen, comes about when the legislature is not restricted by Constitutional provisions. Different methods are given a trial in a locality and different methods in the various localities exist at the same time, thus furnishing good opportunities for comparing results. It can be seen that a great deal of experimentation was made in New York before the appointive system was made state-wide in the cities of the state.

As far, then, as the Pennsylvania Constitution of 1873 is concerned, the conduct of elections remained practically the same. The change in the manner of appointing overseers was a change making that method of supervision less effective.

Other states continued to rely upon the regular election officers to secure the desired results. Several constitutions were revised about the time of the Convention in Pennsylvania, notably New York (1867), Missouri (1875), Illinois (1870), and Michigan (1867), but none made provisions for quasi-election officers. It was seen that the legislature of New York, in order to improve methods of elections, instead of providing quasi-officials was experimenting with different methods of securing officers, and attempting to make the regular election boards more effective.

System of Supervision by Watchers Established

Another manifestation that conditions at the polling places in Pennsylvania were not satisfactory is afforded by the Act of 1891 establishing a method of supervision by means of watchers. "Each party," the Act states, "and each group of citizens which has filed a nomination paper are allowed to appoint three electors of the precinct to act as watchers at each voting place, one of whom could remain in the polling room outside of the enclosed space." The persons acting as watchers were required to have a certificate from the County Commissioners showing the party represented.[63] The system of watchers then provided exists at present in a slightly modified form from that provided in the Act of 1891. The system as it exists today is outlined in a later chapter and the success of the system is examined.[64] In the Act

[63] Laws of Pennsylvania, 1891, p. 361.
[64] *Infra*, p. 76.

establishing watchers, it is to be noted, the legislature is again placing its reliance upon party spirit to obtain fair elections.

Development of the Bipartisanship Method of Supervision

Reliance upon party spirit to maintain the proper supervision of elections is general throughout the states, although it will be seen later [65] that some noteworthy attempts have been made in recent years to uproot the bipartisan idea. But few states, notably New York, have joined Pennsylvania in placing the bipartisan requirement in the Constitution.[66]

Resort to the bipartisan method of supervision occurred in New York at approximately the same time the principle was adopted in Pennsylvania.

In the Act of 1840, adopting the elective method of securing election boards in New York City, bipartisan representation was established by a provision, the same as that in Pennsylvania, that electors could vote for only two of the three inspectors to be selected.[67] The bipartisan requirement was extended to other cities of the state in 1841.[68]

However, by an Act of 1842 replacing the elective system by an appointive in New York City no division of election officers between the parties was required.[69]

No further mention of the bipartisan requirement was made until the establishment of the appointive system in Albany in 1870 when it was required that the election officers should be divided between the two major parties.[70]

When the elective system was re-established in New York in 1870 the method of securing bipartisan representation as provided in the Act of 1840 was adopted.[71] And when the change was made to the appointive system in New York and also in Brooklyn in 1872 the bipartisan feature for the election boards was provided.[72]

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[65] *Infra*, p. 67.
[66] Constitution of New York, II, 6; Constitution of Oklahoma, III, 4; and Constitution of Virginia, II, 31.
[67] Laws of New York, 1840, Chapter 78.
[68] *Ibid.*, 1841, Chapter 76.
[69] *Ibid.*, 1842, Chapter 56.
[70] Laws of New York, 1870, Chapter 77.
[71] *Ibid.*, 1870, Chapter 138.
[72] *Ibid.*, 1872, Chapters 575 and 675.

Reliance upon bipartisanship was again manifested in New York by the establishment in 1880 of a system of watchers appointed by the parties.[73]

A step farther has been taken in many states in reliance upon bipartisanship, by establishing laws providing for recommendations by party committees of a list of prospective appointees to election boards, and in some states the appointing authority is required to choose those recommended. Pennsylvania has not by law adopted any provisions regarding party recommendations because it has adhered to the elective system. In practice in the larger cities of Pennsylvania the list of candidates for election to the election boards are put forward by the party organizations as completely as are lists furnished where the appointive system prevails.

In the Constitutional Convention of 1894 in New York a provision, requiring bipartisan election boards was inserted into the Constitution.

Methods of Furnishing Assistance to Voters

A method of furnishing assistance to voters in Pennsylvania at the general election was provided in the Act of 1891. The system slightly modified in 1893 is the method now in use. According to the method provided, any voter who declares to the judge of elections that by reason of any disability he desires assistance in the preparation of his ballot may select some qualified voter to give assistance, such assistance to be given in the voting compartment.[74] The method provided for giving assistance whether or not designed to aid the party in control at the polling places in the large cities especially, has since its adoption been used as a method of influencing voters. The whole question of assistance to voters will be considered in a later chapter.

Other states at that time had found it necessary to have more strict assistance methods. Illinois was using the method of giving assistance by means of two election officers of different political parties and requiring a memorandum of assistance to be made.[75] New York in 1895 adopted the method of requiring

[73] Laws of New York, 1880, Chapter 56.
[74] Laws of Pa., p. 419.
[75] Rev. Statutes Ill., 1893, p. 691, Sec. 31.

the need for assistance to be stated at the time of registration, such assistance to be given by two election officers of different parties.[76]

Direct Primary Legislation

Interest at this period was concerned with the nominating process which persisted and came to the fore in the special session of the legislature in Pennsylvania in 1906. The Governor, in calling the special session, urged the legislature to revise the laws relative to primary elections in such a way as to provide for the holding of the primary elections of all political parties on the same day under the supervision of properly constituted officers.[77]

A uniform Primary Act was enacted in Pennsylvania in response to the Governor's request.[78] Also ballot reform came in for its share of attention as manifested by the Acts of 1891,[79] and 1893,[80] known as the ballot reform bills. The reform bills arose from the public demand for greater secrecy in voting at the polling places, and to help diminish the fraudulent vote.

In the Primary Act of 1906 in Pennsylvania the regular election boards were given authority to conduct the primary elections.[81] The legislature had the choice of setting up separate boards for conducting the primaries, but were limited to the elective system in securing election boards by the Constitutional provision to that effect. In 1907 an amendment to the Constitution was proposed by the legislature providing for the biennial election of election officers with the right reserved to the legislature to provide a system of appointment in cities of its choice. The amendment passed two successive legislatures but was defeated at the polls by a vote of 128,287 for adoption, 194,810 against.[82]

A change was made in the manner of securing assistance in the casting of ballots as provided by the Act of 1893.[83] By a pro-

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[76] Laws of N. Y., 1895, Chapter 810.
[77] Laws of Penna., 1906, pp. 3 and 4.
[78] *Ibid.*, 1906, p. 36.
[79] *Ibid.*, 1891, p. 349.
[80] *Ibid.*, 1893, p. 419.
[81] Laws of N. Y., 1906, p. 40.
[82] Smull's Legislative Handbook, 1912, p. 257.
[83] *Supra*, p. 23.

vision of the Act, a voter to receive assistance was required to make an affidavit that he is not able to read the names on the ballot or that by reason of physical disability he is unable to mark his ballot.[84] The requirement remains the same at present. For the general election, it was seen, no affidavit is required although attempts have been made to change to the method used at the primary.[85] It is impossible to find a logical reason for requiring an affidavit in the primary election and not at the general election. If the affidavit is needed at one it is needed at the other. Furthermore, a change was made in the Primary Act of 1906 in the method of computing the returns of the primary. The County Commissioners were given the authority to receive and compute the returns.[86] In computing the returns it was provided that the County Commissioners, if any ten qualified electors of the county present a petition setting forth that fraud had been committed, should open the ballot box and recount the vote of the district in question. This latter provision was changed in 1911 to a method whereby the Court of Common Pleas, upon the petition of five electors of the precinct, was required to order the County Commissioners to open the ballot box of the precinct concerned and count the vote.[87]

Method of Opening Ballot Boxes

In 1913 the Commission appointed in 1909 by the Governor, to revise and codify the election laws of the State, recommended that the law be amended making it the duty of the court upon the petition of ten qualified electors of any ward, township or borough, containing more than two election districts to open two ballot boxes selected by lot from the ward, township or borough, and to recount the votes. Also the commission recommended

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[84] Laws of Pennsylvania, 1906, p. 41.

[85] The Commission appointed in 1909 to revise and codify the election laws was instrumental in introducing a bill in the legislature providing that the affidavit requirement should be extended to cases of assistance at the general election. (Exhibit O. of the Report of the Commission.) The Committee of Seventy presented such a bill to the legislature in 1913. Governor Pinchot again presented such a bill in 1926. None, however, resulted in legislation.

[86] Laws of Pennsylvania, 1906, p. 42.

[87] *Ibid.*, 1911, p. 49.

that the law of 1911 be amended to allow petitions from the county instead of the precinct requirement and to increase the number of petitioners from five to ten.[88] The recommendation of the Commission was not adopted by the Legislature.

The number of petitioners was changed from five to three by an Act in 1919. Another change in 1921 gave to the court the authority to decide whether or not it would open the ballot box upon the petition presented.[89] In the special session of 1926 a bill was introduced by the Governor providing for the mandatory opening of ballot boxes. The court, according to the bill, was required to open the ballot box of a precinct upon the petition of five electors of the county averring that they believed that fraud or error occurred in the computation. The bill went the way of the other election bills presented by the administration. A bill somewhat similar to that presented in the 1926 Special Session of the Legislature, making the opening of ballot boxes mandatory, has been introduced in the present legislature (1927).[90]

Attention Given to Personal Registration

However, in attempting to improve elections the most of the attention of the legislature continued to be given to registration as manifested by the personal registration acts of 1906,[91] 1913,[92] and 1919.[93]

The need for improvements in the methods of determining the right to vote were outstanding. Fraudulent names swarmed on the registration lists,[94] and the need still persists.[95] The movement now by some seeking improvements in elections is toward the substitution of permanent registration for the present system.

It has been seen that little attention has been given to the

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[88] Final Report of Commission to Revise and Codify the Election Laws of Penna., 1913, p. 145.
[89] Laws of Pennsylvania, 1921, p. 1125. (251 Pa. 110.)
[90] *Infra*, p. 125.
[91] Laws of Pennsylvania, 1906, pp. 49 and 63.
[92] *Ibid.*, 1913, p. 1043.
[93] *Ibid.*, 1919, p. 830.
[94] Article by Clinton Rogers Woodruff, *Annals of the American Academy of Political and Social Science*, Vol. 17, March, 1901, p. 189.
[95] In 1926, 11,869 names were struck off the registry list by the Registration Commission of Philadelphia. Report of the Registration Commission. Philadelphia, 1926, p. 2.

conduct of the elections at the polling place, the counting of the vote, and the canvass of the returns.

It will appear in later chapters that the good results obtained in registration may be rendered useless if there is not adequate supervision while the ballots are being cast or the returns made.

The attention given to registration has been far out of proportion, when the consequences are considered, to the attention given to the conduct of elections and making returns. That is not to say that too much attention has been given to registration. Not enough has been given. It is to say, rather, that there has been a woeful lack of attention given to the methods by which votes are cast and counted.

Attention to Conduct of Elections and Returns in 1926 Special Session of Legislature in Pennsylvania

Some considerable attention has been given to these phases of the election process within the last few years, although the measures considered were not adopted by the legislature. At the special session of 1926 bills were recommended to the legislature by the Governor to restrict assistance to voters, to provide a better means of identification of the applicant for a ballot by requiring his signature upon receiving a ballot, to render impossible the "chain system" of voting, a bill to facilitate the opening of ballot boxes, one to require more prompt delivery of the boxes after the election, bills regarding the use of voting machines, one a proposed Constitutional amendment, a proposed Constitutional amendment to remove the district requirement in the appointment of overseers of election, a bill providing jail sentences for election offenses, one making all election records, except the ballots in the ballot boxes, public records, a bill providing for permanent registration, and one for the removal of the tax qualification for voting.[96]

All but the last two bills, it is to be noted, are concerned with the improvement of the conduct of the elections and the making of returns. The recommendations will be considered in their

[96] Governor's Message to the General Assembly of Pennsylvania, 1927, p. 187.

proper places in the chapters which follow. It is enough to point out here that the long list of recommendations submitted by the Governor, which were in essence the recommendations made by the Committee of Seventy-Six,[97] is evidence of the long neglect by the Legislature of methods for improving the conduct of elections and making returns. In the present legislature, 1927, bills pertaining to the conduct of elections or returns have been introduced dealing with assistance to voters, method of opening ballot boxes, and use of voting machines.

The adequacy or inadequacy of the recommendations made in 1926, or of the bills now before the legislature, can be examined better after a detailed consideration of the conduct of elections and making of returns. Especially will the attempt be made to throw light upon the solution of problems involved by pointing out how those problems have been met in other states, particularly in states with dense populations where the problems are similar.

In considering the development of an election system one eye must be kept upon the legislature, which is largely responsible for the kind of development which comes about, or to which the lack of development can be charged.

The Pennsylvania Legislature

The Pennsylvania Legislature is almost entirely and has been for many years, a one-party legislature.[98] There has not been,

[97] A Commission appointed by the Governor to make a study of elections throughout the State and recommend legislation.

"Dairymen, publishers, bankers, manufacturers, ministers, lawyers, educators, business men, coal miners, social workers, and club women found their ranks represented by the Committee of Seventy-Six," says Mr. Paxton. Among its members were 2 judges, a member of Congress, and other public officials, the State Chairman and three former State Chairmen of the Democratic party in Pennsylvania, the President of the State Federation of Labor, and the State Presidents of the W. C. T. U., the Federated Women's Club, the League of Women Voters, and two organizations of Republican Women. (*National Municipal Review,* April, 1926, p. 196. E. T. Paxton, then with the Bureau of Municipal Research in Philadelphia.)

[98] In the present legislature (1927) there are in the House of Representatives 191 Republicans, 17 Democrats; in the Senate 45 Republicans, 5 Democrats. The entire representation of Philadelphia consisting of 41 representatives and 8 senators is Republican. The same is true of the representation from Allegheny County, consisting of 27 representatives and 5 senators.

therefore, a minority party with strength to secure improvements in the election system which would act adversely to the control of the majority party. For instance, the method of selecting precinct election officers is much more favorable to the majority party than would be a system which required the members on the election board to be divided equally between the parties. It would be felt to be a stroke of generosity, on the part of the predominately one-party legislature, to the minority party to grant an improvement which would tend to equalize the situation at the polling places, or to bring about systems which would strengthen supervision, giving the minority a better position.

It must be kept in mind also, that solid one-party representations are sent to the legislature from the two cities, Philadelphia and Pittsburgh, and occupy an important influence on securing or defeating legislation. The extent of their influence regarding election legislation can be seen by examining the membership of the Elections Committee in the House and Senate. The following table shows the total number of members on the Elections Committee, the number of members from Philadelphia and Allegheny Counties, and the total from the two counties from 1911 to, and including, the present session:

Session	Total Number on Elections Committee	From Philadelphia	From Allegheny	Total from Philadelphia and Allegheny
		House of Representatives		
1911.....	25	8	3	11
1913.....	25	7*	1	8
1915.....	25	13*	2	15
1917.....	25	15	2	17
1919.....	26	10	5	15
1921.....	30	10	8	18
1923.....	30	8	14*	22
1925.....	30	8	13*	21
1926.....	30	8	13*	21
1927.....	30	9	15*	24

Senate

1911.....	11	4*	1	5
1913.....	12	5*	1	6
1915.....	12	4*	2	6
1917.....	15	3*	1	4
1919.....	14	4	2	6
1921.....	14	4	2*	6
1923.....	18	4	4	8
1925.....	18	4*	3	7
1926.....	18	4*	3	7
1927.....	18	4	3	7

* Indicates Chairmanship.

In the House since 1915 the two counties have had a decided majority of the members on the Committee. It is to be noted that in the sessions where there were possibilities that election legislation would be brought to the fore (1923, 1925, 1926, and 1927), there were considerable increases in the number of representatives from the two counties, and at all four sessions the chairmanship was held by one of their number.

In the Senate the number of members from the two counties constituted half of the members at two sessions and slightly less than half at the other sessions, excepting in 1917 when the membership was only about one-fourth of the total. Philadelphia and Allegheny Counties have about one-fourth of the total number of Senators in the whole body, and so, with the exception of the session of 1917 there was a much higher percentage of members from the two counties on the Elections Committee than in the whole Senate.

Whether or not there is intentional placing of members on the Elections Committees at the request of the organization bosses of the two cities to control election legislation, it has been clearly demonstrated that the political bosses have little difficulty in transferring their wishes regarding the fate of election bills to the Committees.

Summary

Looking back over the history of elections in Pennsylvania it is noted that the legislature paid practically no attention to elections until the extent of election irregularities occurring in centers of dense population caused the people to demand some relief.

At several stages there have been outbursts of legislation on the subject but always before such outbursts have election irregularities mounted higher and higher, and the laws appear for the most part to have been enacted to correct the outstanding abuses of the time. In other words, it has seemed that election legislation has for the most part been framed to meet pressing demands for relief from oppressive election irregularities, rather than being produced by constructive foresight.

To relieve the conditions existing in the score of years preceding the Act of 1839, the legislature, as its chief method of relief, introduced in the Act of 1839 the feature of bipartisanship into the election board. Later when the system had had time to prove itself inadequate the plan of sending quasi-officials, also bipartisan, to the polling places to supervise the regularly elected officers was adopted.

About the same time the increasing congestion of population in small areas, bringing with it the lack of acquaintance among the people of the districts, forced the legislature to consider schemes for limiting the vote to those entitled to vote.

Later a plan was adopted for allowing more quasi-officials, watchers selected by the parties, to be sent to the polling places to supervise the regularly elected boards; a new ballot was adopted because of the inconvenience and fraudulent use of the old; a nominations system was devised to replace the controlled convention system, and further attempts to put an end to fraudulent voting manifested themselves in registry acts.

Only within the last few years has there been in Pennsylvania a recognition that the election officers occupy the key position in obtaining fair elections, and upon that recognition attempts have been made to increase the supervision to which they shall be subjected. Such attempts, however, have not yet resulted in legislation.

All through the process a great deal of responsibility for fair elections has been placed upon the electors of the districts. Individual voters have been relied upon to check lists to insure that only qualified voters would exercise the voting privilege, to witness the casting of the ballots and challenge those who would vote illegally, to witness the count of the vote to insure its ac-

curacy, to place competent officials in the polling places, to see that the petitions are forthcoming to place quasi-officials in the polling places, and to take the responsibility for presenting cases of irregularities to the court.

The reliance, which is placed throughout the system upon the parties to secure the proper administration of the law, is the outstanding feature of the election system. It is not enough for the parties to put forth their candidates. They must, in order to insure a fair election, have their representatives on the election boards, and place overseers and watchers at the polling places to witness the process of casting the ballots and counting the votes. The election machinery depends for its operation upon the parties. Whoever loses sight of that outstanding characteristic of the election system will not be able to understand the results of the system discussed in the following chapters.

CHAPTER II

Election Authorities

In studying the supervision of the conduct of elections and making returns the election authorities in each political unit need to be considered. This chapter, for the most part, will center around the manner of obtaining office, powers and duties, character, party affiliation, compensation, and manner of removal of the election authorities in each political unit in Pennsylvania, with references to other states for comparative purposes.

Generally among the states little administrative control over the conduct of elections and returns is possessed by state authorities. Generally, statutory control, manifested through detailed laws regarding elections, with little or no administrative control is the prevailing method for the regulation of the conduct of elections and returns.

Supervision by State Authorities

In several states (notably New Jersey, Missouri, Ohio, New York and Michigan), as will be seen, some attempts have been made to bring about greater supervision by state authorities, usually by giving the state authorities appointing power over the county or city boards of election, but in most cases such supervision is nominal.[1]

State Supervision of Elections in New York

The outstanding attempts made to set up a system of state supervision of the conduct of elections has been that of New York where a State Superintendent of Elections, appointed by the Governor, had authority to enforce the election laws relating to registration of voters, crimes against the elective franchise, arrest of illegal voters, inspection of records and documents of elections,

[1] Model Registration System, Bureau Municipal Research, p. 52.

etc.[2] Because the attempt in New York to maintain state supervision of election is the outstanding attempt, extended consideration needs to be given to the system although the office of State Superintendent of Elections was abolished in 1921.

The office of State Superintendent of Elections was established by the New York legislature in 1898 with jurisdiction limited to the Metropolitan district of New York City. The jurisdiction of the office was made statewide in 1911 [3] and a board of three was provided to perform the functions of State Superintendent. The state-wide organization for the enforcement of the election laws is shown by the following chart which was prepared by the New York Bureau of Municipal Research and the New York State Department of Efficiency and Economy for the 1915 Constitutional Convention.[4]

In 1915 the office was placed under the direction of a single Superintendent and so remained until abolished in 1921. Also in 1915 the number of deputies available in the territory outside New York City was greatly reduced.

As the system existed in 1919 the State Superintendent of Elections had authority to appoint 233 deputies. Of those, 83 were permanent deputies and 150 were forty-day men who served on a per diem basis immediately before election. The law at that time required that 70 of the permanent deputies and 87 of the per diem deputies had to be assigned in the city of New York. The only permanent deputies in the territory outside New York City were the seven men in charge of branch offices in the several judicial districts. During the forty-day period there were in the same territory 63 per diem deputies, or an average of slightly more than one to a county.

Another reason why the system of supervision attempted in New York should have extended consideration is that it differs from other attempts at state supervision in that supervision was not to be obtained through the regular county and precinct election officials, but through deputies who should supervise the work of the precinct officials.

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[2] Government of the State of New York, p. 252.
[3] Laws of New York, 1911, Chapter 649.
[4] Government of the State of New York, 1915, p. 252.

PREPARED BY
NEW YORK STATE DEPARTMENT OF EFFICIENCY AND ECONOMY
AND
NEW YORK BUREAU OF MUNICIPAL RESEARCH
NOVEMBER 1916

EJ

STATE BOARD OF CANVASSERS

MEMBERS 5. (WITHOUT COMPENSATION)
SECRETARY OF STATE, ATTORNEY GENERAL, COMPTROLLER, STATE ENGINEER AND SURVEYOR.
STATE TREASURER.
Meet December 15th after each general election and within 40 days after each special election. Canvass certified copies of statements of County Boards of Canvassers, determine election and issue certificates of election.

STATE SUPERINTENDENTS OF ELECTIONS

STATE SUPERINTENDENT OF ELECTIONS (CHAIRMAN)	1	$5,000
STATE SUPERINTENDENTS OF ELECTIONS	2	10,000
SECRETARY	1	2,000

Administration of the election laws of the State. The Superintendents exercise joint general supervision over all Senate Districts, the divisional offices being limited by authority as shown below.

STATE VOTING MACHINE COMMISSION

COMMISSIONERS 3 (COMPENSATION NOT TO EXCEED $150 TO EACH COMMISSIONER FOR EACH VOTING MACHINE EXAMINED)

Examine and report upon voting machines as to mechanical construction, reliability, etc.

BUFFALO DIVISION OFFICE

SUPERINTENDENT	1	
CHIEF DEPUTY	1	$4,500
EMPLOYEES	2	2,200

Direct supervision of 28th, 29th and 30th Senate Districts and partial supervision of adjacent districts.

NEW YORK DIVISION OFFICE

SUPERINTENDENT	1	
CHIEF DEPUTY	1	$4,500
SECRETARY	1	
EMPLOYEES	4	5,500

Direct supervision of 2nd. to 22nd Senate Districts and partial supervision of adjacent districts.

ROCHESTER DIVISION OFFICE

SUPERINTENDENT	1	
CHIEF DEPUTY	1	$4,500
EMPLOYEES	2	2,200

Direct supervision of 45th and 46th Senate Districts and partial supervision of adjacent districts.

MINEOLA
1st S.D. NASSAU AND SUFFOLK COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 8 - 1,600

BUFFALO
48th 49th AND 50th S.D's ERIE COUNTY
ANNUAL DEPUTIES - 6 - $6,600
TEMPORARY DEPUTIES - 20 - 4,000

NYACK
23rd S.D. ROCKLAND COUNTY (RICHMOND COUNTY UNDER SUPERVISION OF NY OFFICE)
ANNUAL DEPUTIES - 3 - $3,100
TEMPORARY DEPUTIES - 8 - 1,600
ASSIGNED TO ROCKLAND AND RICHMOND COUNTIES

NEW YORK
2ND TO 22ND S.D.S AND RICHMOND (2) OF 23rd S.D. NEW YORK, BRONX, KINGS, QUEENS
ANNUAL DEPUTIES - 100 - $108,600
TEMPORARY DEPUTIES - 178 - 34,400

MT. VERNON
24TH S.D.
WESTCHESTER COUNTY
ANNUAL DEPUTIES - 4 - $4,200
TEMPORARY DEPUTIES - 12 - 2,400

ROCHESTER
45th AND 46th S.D's MONROE COUNTY
ANNUAL DEPUTIES - 4 - $4,400
TEMPORARY DEPUTIES - 12 - 2,400

WARWICK
25th S.D. ORANGE AND SULLIVAN COUNTIES
ANNUAL DEPUTIES - 3 - $3,000
TEMPORARY DEPUTIES - 8 - 1,600

POUGHKEEPSIE
26th S.D. PUTNAM, DUTCHESS AND COLUMBIA COUNTIES
ANNUAL DEPUTIES - 2 - $2,100
TEMPORARY DEPUTIES - 12 - 2,400

KINGSTON
27th S.D. GREENE AND ULSTER COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 6 - 1,200

ALBANY
28th S.D.
ALBANY COUNTY
ANNUAL DEPUTIES - 3 - $3,600
TEMPORARY DEPUTIES - 10 - 2,000

TROY
29th S.D.
RENSSELAER COUNTY
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 6 - 1,200

BALLSTON SPA
30th S.D. SARATOGA AND WASHINGTON COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 6 - 1,600

SCHENECTADY
31st S.D. MONTGOMERY SCHENECTADY AND SCHOHARIE COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 10 - 2,000

MOHAWK
32nd S.D. FULTON, HAMILTON HERKIMER AND LEWIS COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 8 - 1,600

GLENS FALLS
33rd S.D. CLINTON, ESSEX AND WARREN COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 6 - 1,200

OGDENSBURGH
34th S.D. FRANKLIN AND ST. LAWRENCE COUNTIES
ANNUAL DEPUTIES - 3 - $3,000
TEMPORARY DEPUTIES - 6 - 1,200

WATERTOWN
35th S.D. JEFFERSON AND OSWEGO COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 8 - 1,600

UTICA
36th S.D.
ONEIDA COUNTY
ANNUAL DEPUTIES - 3 - $3,600
TEMPORARY DEPUTIES - 6 - 1,200

NORWICH
37th S.D. CHENANGO, MADISON AND OTSEGO COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 8 - 1,600

SYRACUSE
38th S.D.
ONONDAGA COUNTY
ANNUAL DEPUTIES - 3 - $3,100
TEMPORARY DEPUTIES - 8 - 1,600

BINGHAMTON
39th S.D. BROOME AND DELAWARE COUNTIES
ANNUAL DEPUTIES - 3 - $3,600
TEMPORARY DEPUTIES - 8 - 1,600

CORTLAND
40th S.D. CAYUGA, CORTLAND AND SENECA COUNTIES.
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 8 - 1,600

ELMIRA
41st S.D. CHEMUNG, SCHUYLER, TIOGA AND TOMPKINS COUNTIES.
ANNUAL DEPUTIES - 3 - $3,000
TEMPORARY DEPUTIES - 10 - 2,000

CANANDAIGUA
42nd S.D. ONTARIO, WAYNE AND YATES COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 6 - 1,200

HORNELL
43rd S.D. STEUBEN AND LIVINGSTONE COUNTIES
ANNUAL DEPUTIES - 3 - $3,000
TEMPORARY DEPUTIES - 6 - 1,200

FRIENDSHIP
44th S.D. ALLEGANY, GENESEE AND WYOMING COUNTIES
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 6 - 1,200

NIAGARA FALLS
47th S.D. NIAGARA AND ORLEANS COUNTIES.
ANNUAL DEPUTIES - 2 - $2,200
TEMPORARY DEPUTIES - 6 - 1,200

MAYVILLE
51st S.D. CATTARAUGUS AND CHAUTAUQUA COUNTIES
ANNUAL DEPUTIES - 3 - $3,000
TEMPORARY DEPUTIES - 8 - 1,600

THE DUTIES OF DEPUTY SUPERINTENDENTS OF ELECTIONS ARE TO ENFORCE THE ELECTION LAWS RELATING TO REGISTRATION OF VOTERS, CRIMES AGAINST THE ELECTIVE FRANCHISE, ARREST OF ILLEGAL VOTERS, INSPECTION OF RECORDS AND DOCUMENTS OF ELECTIONS, ETC.

A great deal of the attention of the Superintendent and his deputies was concerned with registration. A canvass of eligible voters was made before registration and a canvass of those who had registered was made after registration day and before election. If the deputies found a person ineligible to register or found that a vote was not entitled to be cast for a name placed on the register, challenge lists for such were made up and sent to the election officers for use on registration day and at the election.

In 1919 throughout the state 157,791 names were placed on the challenge lists for the primary, 156,709 of which did not appear to register.[5] Prior to registration the residence of 1,077,897 voters was investigated and 60,707 between registration and election.[6]

An important part of the work of the office was the investigation of hotels and lodging houses. Reports were required to be filed and investigations were made to determine the accuracy of the reports. Another important phase of the prevention of false registration was the maintenance of a historical card system. A card bearing information similar to that required in registration acts was kept for each voter and information added each year.[7]

The work of preventing the illegal voter from voting was one of the chief aims of the State Superintendent. The other was to assist the voter to maintain his rights at the polling places, and it is with this latter phase of work that this study is primarily interested. In order to effect this latter aim the deputies were assigned polling places, with instructions to visit them on election day. The deputies were given instructions to give special attention to those districts where it was rumored or suspected that attempts would be made to violate the election law. They had full power to enforce the election laws and to make arrests, to discharge the election board if necessary and appoint a new.

It is reported that numerous breaches of the election laws were discovered. In some districts there were no voting booths, in others no guard rails, in others the booths were not provided

[5] Annual Report of the State Superintendent of Elections, N. Y., 1919, p. 37.

[6] *Ibid.*, p. 39.

[7] A facsimile of the historical card is given on page 13 of the Report of the State Superintendent of Elections, 1919.

with a door and the voters could be observed while marking their ballots, unlawful assistance was furnished, and other irregularities were practiced.

Before 1915 the deputies relied to a very considerable extent upon an examination of the poll books and registration books to show the irregularities on the part of the election officers. A list of the irregularities was then furnished to the appointing authority of the district in question with instructions to remedy conditions. In the first examination of the poll books of the 4,779 election districts of the state, which was done in 1912, an amazing number of irregularities were discovered. In all 4,640,968 errors and omissions were found in the registration books, and 2,225,209 in the poll books, or an average of 1036 errors and omissions in the registration books per election district, and 497 per district in the poll books.[8]

Many of the errors were of a more or less technical nature but were all deviations from the methods prescribed by law. Among the errors or omissions contained were: omission from the registers of names of householders or tenants with whom the electors resided; names entered by initials only; failure to indicate the registration number or the date of registration; residence of electors omitted as well as age, length of residence in state, county and election district, place of birth, date of naturalization, ballot number, and signature of electors.

A change of method was made in 1915. The process of examining the poll books, which it was felt had not secured the desired results, was given up and in its place was adopted the system of sending detailed instructions to the precinct election officers and informing them of the consequences of non-compliance with the law. Deputies were instructed to visit the polling places and call the attention of the inspectors to the instructions.[9] In 1918 the Superintendent, who had adopted this new system, reported that "because of the fact that these officials (precinct election officials) realized a close check was being kept upon their work but an extremely small percentage failed to comply with every order issued by me."[10]

[8] Report of the State Superintendent of Elections, N. Y., 1912, p. 40–41.
[9] Report of State Superintendent of Elections, N. Y., 1915.
[10] *Ibid.*, 1918.

In such a system as that established in New York, obviously, the outstanding problem is the selection of deputies. In that selection the parties played a prominent part. The law allowed each party, Republican and Democratic, to nominate one-half the the number of deputies to be appointed. The deputy in charge of the Senate District office was compelled to appoint the persons recommended if they possessed the qualifications required by law. However, the deputy was instructed by the State Superintendent to make all possible investigations to determine whether the person recommended was qualified. Their past records were investigated if they had previously served as a deputy. A detailed questionnaire answered by the person seeking appointment played an important part in the determination of whether or not the person was qualified for the position. Before 1915, the State Superintendent had authority to appoint 175 additional deputies whenever deemed necessary without nomination by the parties.

To maintain the system of supervision a good sized appropriation was required. The usual expenditure per year ranged between 250 and 300 thousand dollars, the greater share of which went for salaries of deputies. Salaries varied from $5,000 per year for the State Superintendent to as low as $900 per year for annual deputies, although most of the annual deputies received $1200 per year. That amount was the prevailing salary for deputies in charge of branch offices, with the exception of the deputy in the Albany branch office who received $1500.

The foregoing is then, in brief, the description of the system of state supervision attempted in New York State. As was stated the system was abolished in 1921.

The report of a committee appointed by a joint resolution of the Senate and Assembly in 1920 recommended that the office of State Superintendent of Elections be abolished and his powers transferred to sheriffs of counties and police of cities and villages.[11] The following year Governor Miller urged the legislature to take the action which abolished the office. The underlying reasons for abolishing the office of State Superintendent of Elections and the system of supervision of the election laws are not easy to discover.

[11] New York Legislative Documents, 1921, Vol. 21, No. 60.

It was reported by the joint committee of 1920 that the results were not commensurate with the expenditure involved and that the functions of the State Superintendent and his deputies could be performed as well, and with much less expense, by existing officials.[12] It was pointed out, and reports of the State Superintendent bear out the statement, that very few convictions among the large numbers of arrests were secured. From 1918 to 1920 not a single conviction was secured. In answering such a criticism in 1917 the Superintendent of Elections asserted that the psychology of performance in an office such as his was not based so much, as was the general impression, upon securing an isolated conviction or in the apprehension of individuals, but rather as a preventive measure against those frauds so prevalent in the past, repeating, colonization, and their allied ills. The Superintendent averred that the office in standing for the prevention of crime rather than the apprehension after crime had become a most valuable adjunct to those institutions of the state which uphold law and order.[13]

The small number of convictions is explained by Mr. Bard of the Honest Ballot Association as due to a loss of interest on the part of the public in election frauds after an election is over, a similar loss of interest by the State Superintendent and his force, and on the part of the courts and district attorneys. Furthermore, he states that there was a lack of financial support for the office and thus it was inadequately organized and in addition there was a certain amount of resistance to complaints and prosecutions because of the desire on the part of prosecuting officers to protect offenders in their own groups. Further than that he states many cases, due to faulty administration, were poor cases, the evidence was inconclusive, witnesses had been reached or tired out by repeated visits to court, and some arrests were plainly mistakes.[14]

The strongest criticisms, it appears, were of a political nature. The system existing from 1898 to 1911, which affected only the metropolitan district, was established by a Republican legis-

[12] New York Legislative Documents, 1921, Vol. 21, No. 61.
[13] Report of State Superintendent of Elections of New York, 1917, p. 77.
[14] Letter from Albert S. Bard of Honest Ballot Association to author, March 11, 1927.

lature, it is charged, to affect a predominantly Democratic community.

In 1911 the Democratic legislature in a counter-attack and with the desire to depreciate the quality of the work of the office and to make it less effective, according to Mr. Bard, extended the work of the State Superintendent to the entire state, but without adequate reorganization or financial support. "The result," says Mr. Bard, "was precisely what was to be expected. The office of State Superintendent of Elections had to be buttered thin over a greatly increased territory, with the result that it was less effective than before." [15] The Citizens' Union, the City Club, and the Honest Ballot Association in New York City all opposed the extension of the jurisdiction of the State Superintendent, believing that the change would create an impossible situation with the likelihood that the whole system would go by the board.

The office was abolished by a Republican Legislature upon the recommendation of a Republican Governor and that, it is contended, for political reasons. The State Superintendent appointed by Governor Smith in 1920 was appointed for a four-year term. Governor Miller taking up office in 1921 recommended the abolition of the office in the interests of economy. But the conflicting story is that the Governor recommended the abolition of the office in order to get rid of a State Superintendent appointed by a Democratic Governor.

However, the office by that time had fallen into a state of general ineffectiveness, so much so that upon the vote to abolish there was not a dissenting vote.

It appears that the explanation given by Mr. Bard for the failure of the system is substantial. The system lacked adequate financial support. It was pointed out that deputies of a low calibre were secured, but such results are to be expected from salaries ranging around $1,000. Furthermore, the law practically gave the parties the appointing power and the kind of deputies were those whom party leaders wished to reward. By giving such authority to parties, partisanship was injected into a system of regulation which should be as non-partisan as health administration or factory regulation.

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[15] Letter from Albert S. Bard of Honest Ballot Association to author, March 11, 1927.

The strong opposition of the Democratic organization in New York City to the system prior to 1911, and the continued criticism of the system by hotel and lodging house proprietors, stand as testimonials to the effectiveness of the system.

Pennsylvania is representative of those states which have practically no supervision of the conduct of elections and making of returns by state authorities. The legislature, having provided in detail for the conduct of elections, has left the administration of those provisions to local authorities.

Extent of State Supervision of Elections in Pennsylvania

The Secretary of the Commonwealth, who is appointed by the Governor, and may be removed thereby, has the authority to prepare forms for all necessary blanks and to furnish copies to the County Commissioners of each County from which the Commissioners secure additional copies.[16] Moreover, he receives returns for the election of governor, electors of president and vice-president, senators and representatives of the Commonwealth, and United States Senators and Representatives. In case of the returns of the election of United States Senators the Secretary has power to tabulate and compute, but in all other cases he merely receives the returns.

An Election Bureau is maintained within the Secretary of the Commonwealth's Department, the chief function of which is to file nomination petitions, prepare forms for necessary blanks, and receive returns. The extent of the Bureau's work can be seen by the fact that only four full-time employees are in the Bureau, with additional help of that many more at times, and the Bureau operated on a budget of $8,790 in 1924.

None of the other states in seeking improvements in elections have gone as far as did New York State in giving supervision to state authorities. The usual extent of the power given to the state is the appointment of the county or city election commission.

Extent of State Supervision of Elections in New Jersey

In New Jersey the Governor has power to commission the county boards of election,[17] boards of four members which have

[16] Pennsylvania Statutes, 1920, Section 9823, p. 949.
[17] New Jersey Election Laws, 1920, p. 67.

the power to control registration and the conduct of elections. Removal power also lies with the governor. The law requires the executive to appoint those recommended by the state chairman of the two leading parties, two recommendations being made by each.

It is, therefore, more accurate to say that in practice the state chairman of the two leading political parties appoint and the governor commissions the members of the board of elections. Only in case the chairmen of the political parties fail to make recommendations is the governor allowed to make his own choices from citizens of the county. The state chairmen are required to appoint persons possessing the qualifications prescribed by law, but since the only qualification prescribed is that the person be a legal voter of the county, no power of selection is added thereby to the governor's power.

Extent of State Supervision of Elections in Ohio

In Ohio the Secretary of State (elected by the people) is state supervisor and inspector of elections and as such exercises as his greatest power the appointment of county boards of deputy state supervisors and inspectors of elections in counties which contain a city in which annual registration of electors is required, which board has charge of registration and conduct of elections.[18]

But here again the Secretary of State depends upon the party committees of the county for recommendations and the law requires those recommended to be appointed if qualified.[19] While the list furnished by the party committees is adopted almost without exception there rests with the Secretary of State the power to determine whether those recommended are qualified, but as in New Jersey the only qualification called for is that the person be a qualified voter of the county, and consequently little, if any, power of selection remains to the Secretary of State.

The power of appointment of deputy state supervisors has been construed to give the state supervisor of elections the authority to advise the deputy supervisors as to the proper method of conducting elections after they have been called.[20]

[18] Election Laws of Ohio, 1924, p. 6.
[19] State ex rel. Culbert v. Kinney, 63 Ohio St. 304.
[20] Election Laws of Ohio, 1924, note p. 6.

The Secretary of State has removal power over the deputy supervisors and the clerks chosen by the board of deputy supervisors. While the power is rarely used it exists and is considered to have some influence in preventing extremes, at least in election irregularities.

Extent of State Supervision of Elections in Missouri

Again, in Missouri the Governor with the concurrence of the Senate has the power to appoint a board of election commissioners in each county of the state with a population of 150,000 or more, and in each city with a population exceeding 1,000,000. The boards have charge of registration and the conduct of elections.

As in Ohio, the Governor depends upon the party committees of the county for recommendations, and appointments practically without exception are made from the names submitted. Removal power also rests with the Governor.

There is no attempt to state here the results of the practical operation of these systems in which some powers of control over elections have been lodged in state authorities. It is known from what investigations have been made that the persons submitted by the party committees of the county are invariably appointed. But it can not be said to what extent the fact that the state authority has the power to decide whether or not the person recommended is qualified has raised the character of those presented by the committee. Since the qualifications prescribed are so narrow and are not related to the character of the person it can be safely assumed that the character of the persons on the board is not materially raised by giving the appointing, or more correctly, the power to commission to the state authorities. Appointing power in the states considered in fact rests with the parties, and therefore, the results secured must almost entirely be attributed to the parties.

Nor can it be said to what extent the power of removal which resides in the state authority has been instrumental in causing the members of the county boards to consider more seriously their responsibilities to supervise the elections.

Where the state authority has power of selection in making appointments there is reason to believe that better results with respect to the personnel of the boards are secured. The state au-

thority has an opportunity to take the control of the county boards out of the hands of machine control where such control is detrimental to fair elections. A good illustration of such a delivery was the overhauling of the Registration Commission of Philadelphia by Gifford Pinchot, as Governor, while the County Commissioners, elected by the people, remained snugly under organization control. The type of board secured where the state authority has the power of selection will depend upon the character of the appointing authority. But, at least, responsibility is centered upon the state authority, whereas now in states where the state authority merely commissions, responsibility is divided between the state authority and the political parties, with most of the responsibility upon the parties, which are difficult to hold accountable for that responsibility.

Single Election Board versus Two-Board System

It is to be noted that single boards are appointed in the counties of the states mentioned to exercise the functions of registration and the conduct of elections.

Pennsylvania stands practically alone in maintaining separate Boards to control registration and elections. In New Jersey, Ohio, Missouri, Illinois, New York, Wisconsin, and the city of Boston, the Boards of Election Commissioners control both the registration and conduct of elections.

When the personal registration acts were adopted in Pennsylvania, registration boards were provided because there were no existing election boards capable of taking over the functions of registration. The attempt was not made to consolidate all election functions in the Registration Commission.

The wide use of the single board system in all the other densely populated states stands as evidence of the greater effectiveness of the system. Responsibility is fixed. There can be no dodging of responsibility for unfair elections. There does not exist one board to excuse its shortcomings because registration was not done properly, another to refuse to be held responsible for substitutions for names legally registered. Where the functions are combined the process can be looked upon as a whole, which in fact it is, and one board can be held responsible for securing the object of the whole process, that is, fair elections.

Furthermore, economy could be brought about in salaries and office expenses. In other states where the functions are combined in one office can be seen boards of not more than four members, in some cases one member,[21] satisfactorily discharging the functions. Since in most states single boards exist in the precincts for registration and conduct of elections the chief function of the board is performed upon the appointment of the precinct boards. Furthermore, economy is promoted when the functions are combined in one office with respect to records and the duties in maintaining those records.

Since the chief purpose here is to examine the effectiveness of the supervision obtained from the systems under examination there is no attempt to show the relative expenditures involved.

Furthermore, under the one-board system the number of appointees is decreased, allowing greater care on the part of the appointing authority to be exercised in making the appointments, which greater care should be reflected in the character of the members secured for the boards.

Extent of Supervision of Elections by County Authorities

A clear cut cleavage exists in Pennsylvania between the state authorities and the county commissioners, who are the election commissioners for the county, by means of the Constitutional clause providing for their election.[22] And similarly a clear cut cleavage exists between the County Commissioners and the precinct election officers by the provision in the Constitution making them elective.[23]

However, by law some powers related to the conduct of elections and making returns are given to the County Commissioners, and for that reason some attention needs to be given to those officers.

The County Commissioners, three in number, are elected for four-year terms under a Constitutional provision requiring that the voters of the county can vote for only two candidates, a provision designed to secure a board of Commissioners divided politically. The provision has acted to secure a politically divided board in practically all counties, at least in name. In 1926 one-

[21] Omaha—Rochester.
[22] Constitution of Pennsylvania, Article 14, Section 7.
[23] *Ibid.*, Article 8, Section 14.

party boards, in name, existed in three counties of the sixty-seven in the state.

Although the face of the returns show that in only three cases were one-party boards elected, it is necessary to go back of the returns to know whether the boards are in fact divided politically, especially in counties such as Philadelphia and Allegheny where a predominately one-party situation exists. Out of a total registration of 438,096 in 1926 in Philadelphia, 415,220 were registered as Republicans, 22,876 as Democrats.[24] In Allegheny County of a total registration of 379,155 in 1925, 333,129 were registered as Republican and 37,455 as Democrats.[25] Or in other words, there was in 1926 in the 1500 divisions of Philadelphia an average of 276 Republicans and 15 Democrats. In the 1376 divisions of Allegheny County there was in 1925 an average of 242 Republicans per district and an average of 25 Democrats.

Under the clause prescribing that voters shall vote for not more than two of the candidates it can be seen that in Philadelphia and Allegheny Counties, at least, the Republican party could place three Republican candidates in the field and by a division of the Republican votes could secure all three places on the board. And in fact, although not in name, such has been the case. The Democratic members on the board of each county, as can be shown by the vote received at their election, are dependent upon the Republican organization for their election.[26] The framers of

[24] Report of Registration Commission, Philadelphia, 1926, p. 16.
[25] Penna. State Manual, 1925–6, p. 405.
[26] The situation within the first 20 wards clearly showing that the Democratic candidate is supported by Republican votes was as follows:

Ward	Dem. Regis.	Dem. Vote	Ward	Dem. Regis.	Dem. Vote
1	286	5,641	11	86	700
2	89	2,256	12	86	1,169
3	84	1,448	13	101	1,025
4	57	1,603	14	128	1,549
5	28	1,588	15	669	1,582
6	306	457	16	82	665
7	104	2,075	17	129	699
8	101	2,250	18	277	599
9	59	210	19	781	2,220
10	148	2,640	20	237	1,409

(Total Democratic Reg. in City 20,714):
The Democratic member in Philadelphia received 82,653 votes.

the method of securing partisan representation in 1839 doubtless did not contemplate that the method would have to operate in districts as one-sided as those of Philadelphia County.

There is no method provided for removal or setting aside the election of County Commissioners if the board is not divided politically, and hence there is no assurance that the board will not be one party in fact.

Even where the board is divided, two of one party and one of the other, the law makes two of the board sufficient to perform the duties of the board,[27] and hence the minority member has no direct method of blocking action by the two of the other party, or securing action contrary to their wish.

It will be seen later that uniformly among the states where bipartisan election commissions are provided the parties are given equal representation on the board. To provide otherwise is to place one party at a disadvantage.

Methods of Selecting County Election Boards

The use of the election method to secure county or city election commissioners has been discarded generally among the more densely populated states.

In New Jersey the county board of election commissioners are appointed by the Governor. In New York City the Board of Elections is appointed by the Board of Aldermen. Outside of New York City the county boards of elections are appointed by the County Boards of Supervisors. In Illinois, ten of the larger cities, including Chicago,[28] have by a vote of the people adopted a system whereby the county court appoints a board of election commissioners for the city.

In Missouri, in counties having a population exceeding 150,000 and cities of 100,000 population or more, boards of election commissioners are appointed by the Governor. In Ohio, in counties in which there is a city in which annual registration is required, boards of deputy state supervisors of elections are appointed by the Secretary of State. In Boston a Board of Election Commis-

[27] Laws of Pennsylvania, 1920, Sec. 7337.

[28] Bloomington, Cairo, Chicago, Danville, East St. Louis, Freeport, Galesburg, Peoria, Rockford, Springfield.

sioners is appointed by the Mayor.[29] In Wisconsin, in cities of 100,000 population or more, a Board of Election Commissioners is appointed by the Mayor of the city.[30] In Baltimore a Board of Supervisors of Elections is appointed by the Governor.[31]

It can be seen from the foregoing that in densely populated districts for the most part elections are controlled by appointive county or city boards. For districts of great population, such as that in Philadelphia and Allegheny Counties, Pennsylvania stands alone in placing control in county elective boards. Moreover, the boards in Pennsylvania have not only the function of election commissioners but also the usual duties of County Commissioners.

The reasons for the change to appointive boards are not far to seek. In all cases where boards are appointed the law requires a board divided politically. Under the system of appointment there is much greater opportunity to secure a board in fact divided politically. Under the system of election, especially in one-party communities, as has been shown in Allegheny and Philadelphia counties, although the law establishes a system designed to secure a divided board, such does not result in actual practice. As has been pointed out,[32] the difference in results secured by the two systems, appointive and elective, has been well illustrated by the character of the Boards of Registration, appointive bodies, and the Boards of County Commissioners, elective bodies, in Philadelphia and Pittsburgh. The Registration Commissions were, in fact, during the Pinchot Administration, divided politically while the Boards of County Commissioners were, in fact, one-party boards. If the laws place reliance upon the political division of the board as a means of supervision then obviously supervision falls down if the division is not maintained. Such a division can better be obtained through appointment, if the appointing authority is given power of selection and is not required to rubber stamp the party recommendations.

The electorate cannot be relied upon to maintain the division. There is not any continuous scrutiny of the activities of the

[29] Laws of Massachusetts, Chapter 835, Section 78.
[30] Election Laws of Wisconsin, 1925, Section 10:01.
[31] Election Laws of Maryland, 1925, p. 98.
[32] *Supra*, p. 44.

members of the Board to discern whether they are in fact members of the party for which they were elected, and no effective method of holding them responsible for neglect of duties, except to threaten to defeat them at the polls at the next election. And where elections are controlled throughout, as in Philadelphia and Pittsburgh, such a threat, if it were forthcoming, would mean little.

Where the boards are appointive and the appointing officer relies for recommendations upon the parties, it is true that the party after all is dictating the appointment. But the appointing power need not be so limited. If he is limited in such a way that he has no power of selection and undesired results are obtained, such results are not to be charged to the system of appointment. Rather they should be charged to the system which does not give real appointing power. The number of appointees for boards in large cities, or in counties containing large cities, is not so great that the appointing power needs to rely upon the parties for recommendations. There are other sources, such as citizens' committees, courts, research bureaus, etc., to which the appointing power can turn to supplement his own information regarding available candidates.

Methods of Appointment of Boards of Elections

Differences of opinion prevail as the proper method of appointment of Boards of Election Commissioners. The "Model Registration System" offers optional methods, appointment by the Governor or Mayor.[33] Mr. George C. Sikes opposes appointment of local election boards by the Governor. Mr. H. A. Nichols (Election Commissioner Rochester, N. Y.) believes that appointment should be made by a board of judicial officers as a means of removing the office from political control. Mr. Oakley E. Distin (Chief Supervisor of Elections, Detroit) believes that the most desirable arrangement for large cities is found in Detroit where the City Clerk, President of the Common Council, and the Judge of the Recorder's Court, all elective officials, constitute the election board. Mr. Distin, in upholding the elective board in Detroit, states that all the officers on the board are free

[33] Model Registration System, p. 65.

from obligation and are, therefore, able to exercise their own judgment in matters pertaining to registrations and elections without interference from anyone.[34] The elective board was resorted to in Detroit after a period of most undesirable election conditions under a system handled by the Aldermen.

The success of the elective board in Detroit has been due to the freedom of action and freedom from obligation of the board. With such an elective board where that freedom does not exist, where the board is an integral part of the political machine of the county, as in Philadelphia and Pittsburgh, such success would not be obtained. Also authorities agree in taking away the right of recommendation, which is in fact the power of appointment, from the political parties.

Also differences of opinion prevail as to the proper composition of the local election commission. Again the "Model Registration System" offers optional specifications for the composition of the Commission, a single election commissioner, or an election commission of three, four or five members.[35]

In the "Model Registration System" it is pointed out that the practice of having a single commissioner has worked very successfully where it has been tried, that is in Rochester and Omaha. "A single election commissioner, it is asserted, produces a more vigorous and efficient administration, provides direct responsibility, and usually regards the rights of all political parties and factions more scrupulously than a bipartisan board which may be controlled by the dominant party.[36]

On the other hand it was shown [37] that Mr. Distin places faith in a board of three members. Also a board of three, four or five members is the prevailing composition of election commissions in the states.

One prime reason for the maintenance of a board, of course, is to secure bipartisan representation. It was seen [38] that in the one-party communities of Pennsylvania bipartisan representation is not secured on the election boards. The problem of maintaining

[34] Letter from Mr. Distin, Feb. 14, 1927.
[35] Model Registration System, p. 65.
[36] Model Registration System, p. 65.
[37] *Supra*, p. 49.
[38] *Supra*, p. 46.

boards in fact divided politically is one which requires a lot of care and consideration. It is doubtful, anyway, whether such a board is worth striving for. The Model Constitution asserts "that the principle of bipartisanship in election boards has broken down everywhere," and that "it seems that in election matters there is especial need for non-partisan administration." [39] The situations in Philadelphia and Allegheny Counties, where the election boards are part and parcel of the dominant political machine of each place, cannot be approved of by anyone interested in fair elections and not interested in promoting the welfare of such machines.

The testimony of Mr. Babcock to the Senate Investigating Committee discloses that he and Mr. Armstrong, the two Republican members of the Board of County Commissioners, occupied prominent positions on the Allegheny County Committee, promoting the candidacies of Mr. Pepper for United States Senator and Mr. Fisher for Governor of Pennsylvania.[40] Other information asserted that the third member of the board, supposed to be a Democrat, is a willing co-worker with the other two.

The undesirable results secured under an elective system, which failed to secure a bipartisan board, were plainly seen during the primary election of 1926 in Allegheny County. Considerable evidence is at hand maintaining that the election returns made to the County Commissioners in Allegheny County were changed from a majority for Mr. Beidleman, a candidate for Governor to a majority for Mr. Fisher.

Newspapers carried accounts on the day after the primary, declaring Beidleman elected on the face of returns, from 6,318 of the 8281 districts of the State which gave to Beidleman a lead of 60,167 votes.[41]

In testifying before the Senate Investigating Committee, Mr. McGovern reported that the 60,000 plurality for Mr. Beidleman, as shown by unofficial returns on Thursday morning, two days after the election, was changed to a minority of 10,000 dishonestly by the County Commissioners.[42] Mr. McGovern stating the

[39] Model Registration System, p. 65.
[40] Hearings of the Senate Investigating Committee, p. 1039.
[41] *The Bulletin*, Philadelphia, May 19, 1926.
[42] Hearings of the Senate Investigating Committee, p. 119.

method by which the change was made asserted that "a large number of district returns were made, after being watched by the large aggregation of watchers, to the County Commissioners' office and there turned over to two men, two officials who were the next day indicted by the United States Court for a violation of the Volstead Act, and who had been previously indicted by the United States Court. And these men had charge and possession of the ballots to such an extent that the factions appealed to the court for relief to see what the returns actually were . . . the thing was so bad that at the instance of Congressman Moore, I, along with his efforts, got the Attorney General to come to Pittsburgh in order that he might ask the court to restrain the County Commissioners from not allowing the various candidates to see the returns, that is, what is known as the extra return sheets showing the totals before the returning board went into session." [43]

Mr. Beidleman, before the Senate Investigating Committee, asserted that he was not given credit for all the votes cast for him, and that if he could have obtained the return sheets he could have changed the results.[44] More than a thousand petitions were filed by Mr. Beidleman for that many election districts in Allegheny County, alleging that the County Commissioners had refused to allow him to see the returns and that the returns were incorrect and appealing from the County Commissioners' decisions.[45] The charges were withdrawn when the dilatory attitude of the court delayed action on the petitions until it was felt that the advantage to be gained was no longer possible. Whatever may have happened to the returns, it can be seen that their custody and computation by a board, representing one faction in fact, presents an undesirable situation to those candidates not represented on the board.

Mr. McGovern explained further regarding the return board "that the system that has prevailed in Pittsburgh for a good many years and has now extended to the country districts is to withhold a sufficient number of districts to change the will of the people, or the vote, on the basis of so many votes to the district, whatever

[43] Hearings of the Senate Investigating Committee, p. 113.
[44] *Ibid.*, p. 978.
[45] *Ibid.*, p. 978.

may be needed. If they want to hold out of 1,400 districts 300 districts they have a mathematical scale on which they can figure this thing out from the returns as they come in, in the early part of the evening, basing it on so many districts, and figuring mathematically that they will need so many votes. Then they proceed to hold out these districts on which they have control of the election boards, and then the returns are made to meet the demands for the additional votes needed." [46]

It can be seen that bipartisanship fails as a method of securing effective election boards in one party communities. And in communities where lively opposing parties exist, it is extremely doubtful whether the best qualified persons are the ones selected for the board. More likely is it that the positions will be given as rewards for party service, or the ones will be chosen who will most vigorously safeguard the interests of the party for which chosen, not the ones who best understand the requirements of a fair and efficient election system.

Where the single commissioner plan has been tried, in Omaha and Rochester, without any requirement as to party affiliation, good results have been obtained. In Omaha it can be seen that party labels can be done away with entirely in securing an election commission. The first election commissioner of the county appointed by a Democrat was reappointed by Republican Governors, and the second election commissioner appointed by a Republican has been continued in office by succeeding Democratic and Republican Governors.[47] The " Model Registration System " points out that the custom is pretty well established of keeping the office out of politics, and that better election officials have been selected.[48]

It should be remembered that in Pennsylvania the parties do not have equal representation on the board of County Commissioners, and that the party having two of its members on the board may take action without the concurrence of the third member. Generally in other states, New York, New Jersey, Ohio, Illinois, Missouri, and others, the practice is to give the two lead-

[46] Hearings of the Senate Investigating Committee, p. 117.
[47] Model Registration System, p. 52.
[48] *Ibid.*, p. 52.

ing parties equal representation on the board of election commissioners, with the provision that concurrence of the members of more than one party is necessary for action.

Since the purpose of requiring bipartisan boards is to set up a form of supervision to insure that the board fairly performs its functions, it is evident that the supervision does not exist if the representation of one party has no means to effectually oppose action of the other party to which objection is made.

The provision in Pennsylvania that two of the board can act gives to the two of the majority party an effective means by which the minority member can be brought to terms and often the outcome is an alliance promoted by the majority members to avoid unfavorable publicity.

Powers and Duties of County Commissioners in Pennsylvania with Regard to Returns

As was stated previously a cleavage exists between the County Commissioners and the precinct election officers due to the Constitutional provision authorizing the election of the election board. The supervisory powers of the County Commissioners are, therefore, small. They are given the authority to furnish ballots and ballot boxes to the election judges and provide an adequate voting room in each election district, to furnish poll books to the officers in the election districts, to prepare instructions for the guidance of voters, and to furnish a list of delinquent taxpayers, when so requested by an inspector of elections.[49]

Furthermore the County Commissioners provide the blank forms upon which returns must be made. In cases of the returns for the election of County Commissioners and auditors, and the returns of a primary, the returns are sent to the County Commissioners.[50] The returns of a general or municipal election are sent to the prothonotary of the court of Common Pleas of the County.

The County Commissioners have authority to compute the returns directed to be sent to their office. Their duty in this respect is almost wholly ministerial. The power to compute is

[49] Pennsylvania Statutes, 1920, Section 9853–55, p. 952.
[50] Pennsylvania Statutes, 1920, Section 9927, p. 958.

interpreted to give the authority to tabulate the returns as shown on the face of the division return sheets, unless inaccuracies are apparent.[51] Where inaccuracies appear on the face of the returns the Commissioners have the authority to summon election officers from the division concerned, open ballot boxes, and make changes.

During the computation of the vote in the 1926 primary in Allegheny County, an irregularity in only one precinct return out of the total 1414 precincts was investigated by the County Commissioners. Investigation was made in that case because a contest was started before the County Commissioners, declaring that just the return sheet was in the ballot box, and no ballots in a precinct which had shown a vote of 250 to 275.[52]

During this computation of the returns it was seen [53] that Mr. Beidleman filed more than a thousand petitions appealing from the County Commissioners' decisions. His testimony declared that "where I was able to get a couple of the return sheets, a copy of which was handed over to the minority election officer on election night, and had an opportunity to compare that with some of the other returns, in one district there was a difference of seventy-some in favor of my opponent and in another there was a difference of fifty-some." [54]

There is no power of review worthy of the name existing in the County Commissioners acting as a return board for the primary returns, and the situation is nearly as bad when the judges of the Common Pleas Court form the return board for the general election returns.

From interviews had with County Commissioners the impression has been obtained that they do not in any way feel responsible for the activities of the election officers at the polling places. There is practically no supervision of the administration of the conduct of elections and returns existing in such offices. In Philadelphia and Allegheny Counties, where the Commissioners

[51] Commonwealth vs. Emminger, 74 Pa. Statutes, 479; Lawrence vs. Knight, 4 Phila. 355.

[52] Hearings of the Senate Investigating Committee, p. 1051—testimony of Mr. Babcock.

[53] *Supra*, p. 52.

[54] Hearings of the Senate Investigating Committee, p. 978—testimony of Mr. Beidleman.

are all in fact of one party, the attempt is made to maintain conditions as they now exist at the polling places, to frustrate attempts to look into the actual conditions, and to maintain the office as headquarters for the dominant political machine. It was only because records existed in offices, other than the County Commissioners' office of Philadelphia, that parts of this study were at all possible. The attitude of one of the County Commissioners in Philadelphia, the Secretary of the Board, to a request for information, which by law is a public record, was insulting. The information was deliberately refused. Instead of being a servant of the people of the County to whom he is supposed to be responsible, it was plainly seen that he was responsible to, and was working only for, the interests of the political organization of the city.

The same does not hold true of the County Commissioners in counties containing third-class cities. There was willing cooperation in presenting desired statistics and all requested records were made available. Although on their part exists the same feeling of lack of responsibility for the activities at the polling places, as in Philadelphia, and counties containing second-class cities.

Authority of County Commissioners in Pennsylvania over Watchers

The County Commissioners by law have the authority to grant certificates to watchers to act at the polling places. Each party or body which has presented a nomination certificate is entitled to three watchers for each polling place at the general elections, and two for each candidate at the primary. The certificate which the watcher must obtain from the County Commissioners bears the name of the watcher, the district in which he is authorized to act, the names of the person he represents or the party represented.[55]

The process by which watchers are chosen consists in the presentation of a list of persons to act as watchers by each ward leader to the county or city chairman of the party. The county

[55] Pennsylvania Statutes, 1920, Section 9867–68, p. 953.

or city chairman in turn presents the list of names to the County Commissioners who issue certificates to the persons whose names appear on the list.

The responsibility for placing watchers in the polling places is, therefore, a party undertaking and is considered a party responsibility. The County Commissioners do not attempt to secure watchers for districts for which there are no names presented. The issuance of watchers' certificates is a mere formality. The only control that lies in the authority to issue watchers' certificates is to keep the number of watchers within the number alloted by law, and not even that is always done as will be seen later.[56] Also it will be seen later [57] to what extent the parties fulfill their responsibility of placing watchers at the polling places.

The County Commissioners' office, then, has a negligible amount of supervision over the conduct of elections. A board determined to exert its full strength to insure proper elections could, from reports which are sent in, do a great deal to expose irregularities and give information to the courts or independent bodies to prompt investigations. It is furthermore in a place of vantage to know the defects of the election system and could, if it wished, make proper recommendations in the way of proposed legislation to remedy the defects. Such conceptions, however, do not exist in the County Commissioners' offices where the Commissioners are part and parcel of the dominant political machine of the county.

Comparison of Powers of Election Commissioners in Pennsylvania with those of Election Commissioners in other States

In comparing the powers of the county election Commissioners of Pennsylvania with those of county boards in other densely populated districts, the lack of the Philadelphia and Allegheny election Commissioners stands out.

In New Jersey, in the counties of Ohio in which Boards of Deputy State Supervisors are appointed, and in Missouri in counties and cities in which Boards of Election Commissioners are appointed, the county or city boards have, as their outstanding power, the appointment of election officers in the precincts. In

[56] *Infra*, p. 77.
[57] *Infra*, p. 76.

New York City the Board of Elections has the power to appoint the precinct election officers. Removal power likewise rests with the Board. In Boston the precinct election officers are appointed by the Board of Election Commissioners. In Illinois the precinct election officers in cities in which are boards of election Commissioners [58] are appointed by the board and in the counties throughout the state the precinct officers are appointed by the county Commissioners. In Michigan, in cities containing election Commissions, the precinct officers are appointed by the Commissions. Enough has been given to show that county and city boards of election, in densely populated districts, commonly have the power of appointment of the precinct election officers.

The other powers of the appointive boards of election correspond with those of the elective boards in Pennsylvania. But where the boards have the power of appointing the precinct officers, greater control is established for carrying out their powers. Furthermore, greater responsibility for carrying out their functions is established. And with those two factors existing there is much evidence that the functions of the boards with the power to appoint precinct officers are better performed.

More about the effects of the appointment of election officers as compared with their election will be seen later.[59]

Powers of Supervision of Elections Entrusted to the Courts of Common Pleas in Pennsylvania

The Court of Common Pleas of the County in Pennsylvania, of which the judge is elected, has by law been given some powers of supervision of elections.[60] It is the duty of the Court, upon the petition of at least five citizens of the district to appoint overseers of election, two to each district from which petitions are received. The law requires that the persons appointed must be of opposite political faith and must be appointed from the district.[61]

The overseers may be present with the election officers during

[58] *Supra*, p. 47.
[59] *Infra*, p. 64 ff.
[60] Law is mandatory—Parrish's Petition, 214 Pa. 53, 1906.
[61] Pennsylvania Statutes, Section 9866, p. 953.

the whole time the polls are open and the returns counted, to keep a list of voters, to challenge any voter and question him and his witnesses under oath and examine his papers showing his right to vote.[62]

It was seen in the first Chapter that originally the law permitted the Court to appoint overseers from the county at large but was changed to the division residence requirement upon the fear of some of the legislators that the Courts of Common Pleas, should they decide to override the public will, could send persons of their choice into the districts to accomplish their purpose.[63]

As the system now exists, where the petitions must come from the district, rarely is there ever a request for the appointment of overseers. It can be said that this is a method of supervision which does not operate. One of the outstanding reasons why it does not can be plainly seen. In some divisions, in Philadelphia and Allegheny Counties especially, where the need for overseers is greatest, the number of voters in the division of the minority party is less than the number required to make petition. And in a great many more districts the situation is very one-sided as the following table shows:

County	Not any Members of Minority Party	Less than 5 Voters of Minority Party	5 or Less Voters of Minority Party	10 or Less Voters of Minority Party	Total Number Divisions in County
Philadelphia.....	4	91	111	224	1,472
Allegheny.....	11	87	112	285	1,376
Chester.....		3	5	14	156

(Above statistics are for the November election, 1925.)

In the November 1926 election in Philadelphia in 30 divisions giving the Republican candidate for Senator 6,709 votes the Democratic candidate received not a single vote. In 30 other divisions the Democratic candidate received one vote per division.

[62] Pennsylvania Statutes, p. 953.
[63] *Supra*, p. 15.

In 45 other divisions the Democratic candidate received two per division or 90 votes. In 41 other divisions 3 per division or 123 votes were received. In 37 other divisions the Democratic candidate received 4 per division or 148 votes. In other words 183 divisions giving the Democratic candidate 391 votes gave the Republican candidate 42,878 votes. In 427 divisions, including the above, which gave the Democratic candidate 10 votes or less, he received a total of 1,407 votes, while the Republican candidate received 76,501.[64]

Furthermore, the Court of Common Pleas has authority to compute and certify the returns for general and municipal elections [65] but such authority, it will be seen later, gives a negligible amount of supervision.[66]

It can therefore be seen that little power of supervision of the district election officers resides in county authorities, and the little that does by law exist in the county authorities becomes inoperative where the county authorities are part of the dominant political organization. The election officers constitute a sphere almost entirely unto themselves.

Precinct Election Officials

And it is now necessary to examine the officials at the polling place to see what results have come about under a system where supervision is at the minimum. It is to those officers that the results of elections must almost entirely be attributed. "The key to a satisfactory election system," states the Model Election System, "is the precinct judge or inspector." [67] "These officials," (precinct officials) says Upson, "are the foundation of the election system, and upon their character and capacity depend the honesty and accuracy of elections." [68]

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[64] *Philadelphia Record,* November 13, 1926.
[65] Pennsylvania Statutes, Section 9912, p. 957.
[66] *Infra,* p. 116.
[67] Model Election System, *National Municipal Review,* December, 1921, p. 605.
[68] Practice of Municipal Administration, Lent D. Upson, p. 20.

Manner of Selecting Precinct Election Officials

The district election board in Pennsylvania consists of five members, a judge, two inspectors, and two clerks. The Constitution provides for the annual election of the judge and two inspectors and for the appointment of a clerk by each inspector.[69] The voters of the district are allowed to vote for the judge and one inspector, a provision designed to secure a board divided politically. It was intended that the inspectors would each appoint a clerk of his own party and that the board would thus consist of three members of one party and two of the opposite party.

It was seen in Chapter I [70] that this method for securing party representation on the board was adopted in 1838. The earlier constitution and laws had nothing to say regarding party representation. As was seen it was only after irregularities had become prominent at the polling places that this method was resorted to in the hope that one party would act as a check upon the other to insure a fair election. The responsibility for insuring a fair election is, therefore, by the provision placed upon the parties.

To see how the provision has operated to secure a politically divided election board, it is necessary to look closely into the conditions in the districts. The certificates of election for the judges and inspectors show almost without exception that the board is divided politically. But the certificates of election, it has been found, cannot be relied upon. It is necessary to check upon the individuals elected to determine whether the party they manifestly represent is the party of their true choice. To make such a check the names of the election officers were obtained from their signatures attached to the return sheet for the November election, 1926. The names were then found in the registration book where the party affiliation of the person upon his own statement is noted. The conditions were investigated in representative wards in the first class city, Philadelphia, and the total situation was examined in two third class cities. The following tables show the results discovered:

[69] Constitution of Pennsylvania, Article 8, Section 14.
[70] *Supra*, p. 4.

NOVEMBER ELECTION 1926

Philadelphia		Election Officers			No. Dem. Should Have	Number One-party Election Boards in which All 5 Had Registered Republican	Number Boards in which All Who Had Registered Were One Party
Ward	No. Divisions	Total	Rep.	Dem.			
I.....	31	155	126	20	52	9	14
II....	24	140	106	5	47	14	19
III...	18	90	78	10	30	7	9
IV...	18	90	81	3	30	11	15
V....	18	90	85	2	30	13	16
VI...	8	40	24	9	13		3
VII...	20 27*	100	97	1	33	17	19
	137	685	597	50	228	71	95†

* Statistics had been obtained for only 20 of the 27 divisions of the seventh ward when the registry books were impounded by the Senate Investigating Committee.

† It can be safely assumed that the unregistered members were almost without exception Republican and that this number represents the number of one-party boards with but few exceptions if any.

NOVEMBER ELECTION 1925

Philadelphia		Election Officers			No. Dem. Should Have	Number One-party Election Boards in which All 5 Had Registered Republican	Number Boards in which All Who Had Registered Were One Party
Ward	No. Divisions	Total	Rep.	Dem.			
28	36	180	128	46	60	5	6
44	34	170	121	41	57	7	9
	70	350	249	87	117	12	15

The Registry books had been impounded by the Senate Investigating Committee before statistics for 1926 for the 28th and 44th wards were obtained. The situation for 1925 was therefore examined. The 28th and 44th wards were selected because they were leading wards in the size of the Democratic vote as compared with the Republican.

NOVEMBER ELECTION 1926

Chester County		Election Officers			No. Dem. Should Have	Number One-party Election Boards in which All 5 Had Registered Republican	Number Boards in which All Who Had Registered Were One Party
Ward	No. Precincts	Total	Rep.	Dem.			
I.....	4	20	18	1	7	3	3
II....	4	20	14	3	7	2	2
III...	3	15	14	1	5	2	2
IV...	2	10	9	1	3	1	1
V....	4	20	16	1	7	1	3
VI...	3	15	13	2	5	2	2
VII..	4	20	17	1	7	1	3
VIII..	4	20	17	2	7	1	2
IX...	4	20	17	1	7	2	3
X....	3	15	15		5	3	3
XI...	4	20	19	1	7	3	3
	39	195	169	14	65	21	27
Coatesville							
I.....	2	10	7	1	3		1
II....	4	20	15	4	7	2	2
III...	3	15	8	3	5		
IV...	2	10	8	2	3		
V....	3	15	12	1	5	1	1
	14	70	50	11	23	3	4

The tables above need little explanation. The fact exists that in a great number of election districts in the cities of the state, the method provided in the Constitution for securing a bipartisan board of election officers does not secure such results.

Further evidence as to the lack of political division in fact, of the precinct election boards is furnished by the fact that in Philadelphia for the November 1926 election not a complaint was registered with the Court by members of the one party against the activities of members of the other party.[71]

Pennsylvania, of the more densely populated regions, stands alone, practically, in maintaining the elective method of securing precinct election officers. In Ohio, New Jersey, Missouri, New

[71] Letter from Judge Edwin O. Lewis, Court of Common Pleas, Philadelphia, to the author.

York, Massachusetts, Illinois, Wisconsin, and Michigan, among others, the precinct election officers are secured by appointment. In all cases except in Detroit, Michigan [72] the principle of bipartisanship is employed in appointing the precinct election officers.

Where the elective system prevails there are several reasons why bipartisan boards are not secured. Boards divided politically are not secured in such one-party regions as Philadelphia, Pittsburgh and many third class cities, because only members of one party live in some districts, because deception by presenting a person as a candidate in the minority party, when in fact his true affiliation is with the majority party, is practiced, and because a difficult method is provided of remedying the situation when the officers are found to be of one party.[73]

The method of appointment offers better control to overcome the three defects of the elective system in securing a bipartisan board of precinct election officers. If the appointing power blindly follows the recommendations of the parties then no improvement would result.

Doubtless party recommendations are relied upon quite generally, but in most states such reliance is not compulsory. In New Jersey the Board of Elections may appoint from a volunteer list.[74] In Ohio there is no requirement that the deputy state supervisors appoint those recommended by the party.[75] And in Missouri as far as the law is concerned, the Board of Election Commissioners may choose freely as long as they maintain the requirement of a bipartisan board. In Illinois it is not required by law that the appointing power choose those recommended by the party. The law of New York affords an exception wherein it is required that all appointments by precinct officers shall be made from the original list submitted by the parties if those named therein are found qualified. And if not so qualified then appointments shall be made from a supplemental list furnished by the parties. If no list is filed the appointing authority may choose members who are affiliated with the party failing to submit a list.[76] The practice

[72] *Infra*, p. 67.
[73] *Supra*, p. 11.
[74] Election Laws of New Jersey, 1920, p. 27.
[75] Election Laws of Ohio, 1924, p. 32.
[76] Election Laws of New York, 1925, p. 12.

is to rely entirely upon the parties for recommendations. Where party recommendations are relied upon, such reliance is not based upon the belief that better officers can be secured by that method. Party recommendations are used in order to maintain bipartisan precinct boards, and as a convenient method of receiving the great number of names of appointees required in large cities.

If the appointing power is restricted to the division in selecting appointees for the board in that division, the success of the system again would be diminished. In Ohio, Wisconsin, and Illinois the law limits the appointing power to choosing appointees within the precinct where they are to serve, in Missouri and Michigan the appointing power is given the latitude of the ward from which to select appointees for the precinct boards, and in New York and New Jersey the appointees to the precinct boards are required only to be voters of the city or county in which they are to serve.

Appointment of precinct election officers affords to the appointing power the means whereby the actual party affiliation of the appointees to the precinct boards can be investigated in order to secure actual party members for the board. Under the elective system in Pennsylvania there is no authority, other than the electorate, to undertake such an investigation, and the electorate can not be relied upon to assume such a responsibility.

Furthermore, a record under the appointive system can be kept of eligible appointees, of past performances in cases of previous service, personal examinations can be given, and thereby better qualified officers can be secured.

And again under the appointive system, if bipartisanship is relied upon, the appointing power has the power of removal, and when a board is found not to be divided politically, the undesirable incumbents may be removed upon short notice. The method of correcting such a situation in Pennsylvania, in which 30 citizens of the ward must petition the Court of Common Pleas to set aside the election, is clumsy and does not operate. And if one-party boards exist there is no authority to be held responsible. With the appointive system at least responsibility is fixed.

Furthermore, in spite of the penalty imposed by law, which prescribes that any judge or inspector elected to serve who neglects or refuses to serve shall forfeit $50, or $100 if he refuses

to serve after having undertaken the duties of the office,[77] there is no certainty that the ones elected will appear at the polling places on election day.

By comparing the names on the certificates of election of the election officers with the names affixed to the return sheets, in some of the divisions in Philadelphia it was possible to determine whether the ones elected were the ones who served. The following table shows the results for the first seven wards in Philadelphia:

Ward Number	Division	Number Judges Who Were Elected but Did Not Serve	Number Inspectors Who Were Elected but Did Not Serve
I	31	4	26
II	24	7	23
III	18	1	16
IV	18	2	15
V	18	3	12
VI	8	3	5
VII	27	6	22
	144	26	119

Total number of judges and inspectors in 7 wards.....432
Total number who were elected but did not serve.....145

It is notable, and the above statistics bear out the contention, that many present themselves for the office or allow their names to be presented by the division leader who have no intention to serve when the time comes. Upon their neglect to serve a curbstone election is held on election day which means that the division leader chooses the persons to fill the vacancies.

The appointive system promises better results in this respect. The appointing authorities would have available the information on which to base removal in cases of neglect to serve, and also to enforce the penalty for such refusal. Furthermore, a record could be kept to make certain that the person did not secure appointment at later appointment dates.

The elective system for securing precinct election officers is attacked by Upson, who declares that the " practice is an absurdity, the results of which can be equalled only by the universal appoint-

[77] Laws of Pennsylvania, 1920, Section 9457.

ment of political henchmen to the positions." [78] Again Detroit is cited as a place where election officers of a higher type have been secured under the appointive system, and similarly Omaha and St. Louis.

To secure better results under an appointive system than under an elective system, it is obvious that the appointing authority must do more than rely upon party recommendations.

In Detroit a real attempt has been made to break away from dependence upon recommendations by the parties. The system of electing or appointing bipartisan election inspectors was dropped in 1916. The bipartisan feature was given up after a spell of years of widespread fraudulent voting in the city. "The bipartisan character of the board," according to Mr. Millspaugh, "was of no practical importance." A writer in the *Detroit News* [79] estimated that one hundred of the two hundred and three precincts in the city were controlled more or less completely, and that twenty or thirty were crooked precincts which were delivered for money. The number of such precincts was placed by the Secretary of the Detroit Civic League at forty.[80]

All inspectors under the prevailing system are appointed by the City Election Commission regardless of political affiliations and creeds. Application for election board work is made on a form which shows applicants' hand writing, business engaged in, length of time at present employment (to determine whether applicant is steady, or one of those constantly shifting persons), length of residence in state, and age.[81]

From these applications the Commission selects those whom it considers best qualified to perform the duties required. The political faith of the applicant is not shown on the application form and, therefore, is not a basis of selection.

Mr. Distin in giving the results secured under the system states that there are now serving about 800 bank clerks, cashiers, tellers, accountants, etc. (there are about 4100 election officials in Detroit). Also a great many attorneys, real estate men, people

[78] Practice of Municipal Administration, Lent D. Upson, p. 20.
[79] January 3, 1916.
[80] Pliny W. Marsh, Secretary Detroit Civic League, *National Municipal Review*, Volume V, 1916, p. 622.
[81] Oakley E. Distin, Chief Sup. City Election Commission, Detroit.

doing office work in industrial institutions, and business men are among the appointees, as well as a number of men employed along mechanical lines, proprietors of small stores, etc. who have the educational qualifications to handle the work. "There are times," says Mr. Distin, "when there is a very spirited contest that citizens of considerable prominence in the industrial and financial life of Detroit volunteer for the work from the standpoint of doing their bit towards good citizenship, and along that line presidents and other officers of banks, industrial and commercial institutions help to maintain clean elections."

"The majority of the election inspectors," concludes Mr. Distin, "are bank clerks and people who are doing some branch of accounting or clerical work in some of our large industries. The bank and manufacturers' associations have assisted wonderfully in placing many of their men at the disposal of the Commission on election days, allowing the men to take the day off with pay." [82]

It has been suggested that eventually civil service authorities will be called upon to help perform the function of securing competent election officials. But in Detroit where such a method of selection has been given a great deal of attention and tried out on a limited scale, the results were not at all satisfactory.

The weakness of the system was the failure of civil service examinations to take into account requisites for good election officers other than clerical ability. Mr. Distin explains that a number of people are on the election boards there who would never qualify in a civil service test as far as penmanship is concerned. Among those are a number of bank officials, attorneys, and business men who make a real sacrifice financially in leaving their regular duties for a day to assist in operating elections properly. "Those men," he states, "would never consider taking a competitive civil service examination with a flock of youngsters just out of school who might write a superior hand." Yet those men are more valuable on the boards. "A large number of such citizens," says Mr. Distin, "have sufficient interest other than the remuneration to see that the elections are conducted honestly and efficiently. It was found that to the mass of civil service ap-

[82] Letter from Oakley E. Distin, Chief Sup. City Election Commission, Detroit, to the author.

pointees the remuneration was the principal object, and their sense of duty to the city and state as election officials was secondary.

The task for the Civil Service Commission to supply these officials on the spur of the moment proved a huge one. Vacancies would occur immediately before elections and in using a civil service list made up weeks in advance from a general examination there was great difficulty in locating men quickly enough to fill positions.[83]

The Constitutional provision maintaining the elective system in Pennsylvania prevents the legislature from experimenting with different methods of choosing election officers.

It was seen in the previous chapter how experimentation goes on in states where the legislature is not hindered by constitutional restrictions. In an appraisal of the relative merits of the elective and appointive systems the experiments made in New York are significant. The elective system established in 1840 in New York City lasted but two years when it was replaced by an appointive system.[84] The elective system again lasted but two years giving way in 1872 [85] to an appointive system which has prevailed to the present time, with several changes in methods of appointment however.

In examining the results of the system it is difficult to obtain information showing the character or type of election officers secured under the elective system. No strict conclusions can be drawn but some general ideas can be formed from the following tables regarding the occupations of those selected.

Philadelphia

The following statistics regarding the occupations of those who served as election officers in November, 1926, were obtained from the registry books for the first seven wards, with the exception of the last six divisions of the seventh ward:

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[83] Letter from Oakley E. Distin, Chief Sup. of City Election Commission, Detroit, to the author.

[84] Laws of New York, 1842, Chapter 56.

[85] *Ibid.*, 1870, Chapter 138.

Tradesmen	91
Clerks	87
Chauffeurs	64
Dealers	47
Laborers	44
Salesmen	25
Housewives	20
Stevedores	13
	391

Total number of election officers, 647
In above groups—60 per cent

The occupations of the remaining 40 per cent are so diverse that they do not admit of classification. It can be said that the larger share of those within the 40 per cent are engaged in occupations similar to those listed.

Among tradesmen are included bricklayers, plasterers, lathers, pipefitters, painters, machinists, electricians, plumbers, carpenters, stonemasons, steel workers, roofers, and riggers. Among dealers are included dealers and merchants.

Coatesville (Chester County)

Housewives	18
Laborers	4
Printers	2
Merchants	3
Steel workers	3
Clerks	7
Baker	1
Mill hand	1
Attorney	1
Driver	1
Officer	1
Carpenters	2
Gentleman	1
Manufacturer	1
Plasterer	1
Engineer	1
Organist	1
	49

Total number of election officers, 68
In above groups—72 per cent

While no strict conclusions as to the character of election officers can be drawn from the above statistics, it is very noticeable that the occupations of those in the above wards of Philadelphia differ greatly from the occupations of those on the Detroit election

boards [86] where the Board of Election Commissioners with the power to appoint election officers has made a sincere attempt to secure persons of a higher calibre for the positions.

Also there is a noticeable absence of persons from the professional class among the number. There was one teacher who served, but outside that the professional classes were unrepresented. In considering the character of election officers the amount of irregularities occurring under the system should be kept in mind. Irregularities give a better key to determining the character of election officers than do occupations.

Along with the consideration of the kind of persons chosen as election officers the compensation should be kept in mind. By law in Pennsylvania the minimum compensation is fixed at $5.00 and an additional dollar for every 100 ballots or fractional part thereof over 250.[87] The compensation, therefore, in the larger share of the divisions is $5.00 per day. In second-class counties the judges of election receive $15.00 per day and the inspectors and clerks $10.00 each. The election day begins at seven in the morning and the votes must be counted after the polls close at seven in the evening, often the process detaining the officers until midnight. There are, therefore, many who will not allow themselves to be placed on the election board. Perhaps the type of election officers would be changed somewhat were better compensation provided for the time put in at the polls, although no improvement has been noticed where higher compensation is paid in second class counties. In fixing the compensation the legislature is confronted with an important problem on each side. To secure the best results the compensation must be sufficient to attract competent officials, but not such an amount as would be sought after by political managers to be handed out as rewards for party services. From experiences in other places, notably in New York City and Detroit, where the compensation is somewhat higher, there is reason to believe that better officials could be attracted in Pennsylvania by providing better compensation.[88]

[86] *Supra*, p. 67.

[87] Pennsylvania Statutes, 1920, Section 9451.

[88] In New York City, at the general election where paper ballots are used, the compensation is $15.00 per day for the inspectors and $10.00 for the clerks. Where the voting machine is used the compensation of inspectors is $11.00 per day. At the primary the inspectors receive $8.00 each. (Rept. of Bd. of Elections N. Y., 1926, p. 10.)

Two-Board versus One-Board System

In Pennsylvania separate boards are maintained for registration and the conduct of elections. The system of having separate precinct boards for registration and the conduct of elections has fallen into general disuse. Single boards exercise all the election functions of the precinct in New Jersey, Ohio, Missouri, Wisconsin, New York, Michigan, and Illinois.

In those states the precinct officers are appointive and the function of appointment is greatly simplified by the one-board plan. Where the precinct officers are appointive better supervision can be maintained by the appointing board, if the responsibility for conducting the elections in the precinct is definite, and that location of responsibility is accomplished under the one-board system. The only argument which has any manner of merit for maintaining the two-board system is that a check is set up between the two boards, but that method of providing supervision becomes less necessary where the appointing power has direct control over the precinct officers. Anyway, as will be seen, the argument that a check is set up is often false.

In Pennsylvania, when the personal registration acts were adopted, the Registration Boards, as was shown, were established because there were no existing election boards competent to take over the duties of registration, and precinct boards of registrars were provided for the same reason. And because a Constitutional amendment would have been required to transfer the powers and duties of the election officers to the registrars, and because the political organizations which have been in the habit of controlling elections did not want the situation changed, the powers and duties of the election officers were not transferred and combined in one board.

Enough facts have been discovered to show that the argument which is put forth to substantiate the two-board system, that is, that a check is provided, has no basis in one-party regions. In the next chapter [89] it will be shown that, although the law forbids, many serve as both election officer and registrar. With the one-board system, the question of collusion of course is ob-

[89] *Infra,* p. 93.

viated and the energy consumed under the two-board plan in preventing collusion can be spent under the one-board system in searching for better and better methods by which members can be obtained for the one board.

Effects of Voting Machine upon Election Authorities

Consideration needs to be given to the effects of the use of voting machines upon election authorities.

Of the effects of the use of voting machines upon election authorities, the chief effects are shown among the precinct officers. Where machines are used the number of precinct officers required is reduced by a reduction of the number of precincts, and a reduction of the number of officers within the precinct. Binghampton, Conn., upon adopting the voting machine, reduced the number of districts from 62 to 41; Seattle, Washington, reduced the number from 500 to 294; Tacoma, Washington, from 131 to 101; Yonkers, N. Y., from 64 to 47; Buffalo, N. Y., from 155 to 108; and in New York City it is estimated that the number of districts could be reduced from 2,749 to 2,000.[90] In such cases, obviously, where precincts are abolished, the number of election officers is reduced by the number in such precincts. In the remaining precincts, it is customary to eliminate the ballot clerks, of which there are usually two and in some cases further eliminations are made. Outside of the argument that the parties should be represented on the election board there are no reasons why one official, with a clerk, or more than one clerk if necessary to assist, cannot take care of the duties of the polling place.

Furthermore, in the states where double election boards are provided [91] the entire group whose duty it is to count the vote would be abolished along with the ballot clerks of the group which had charge of the polling place.

The reduction of the number of precinct officers would accordingly diminish the duties of the Election Commissioners where the precinct officers are appointive. With a smaller number of precinct officials to appoint greater care could be exercised by the appointing officials and better selection of officers could be made.

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[90] The Voting Machine, 1925, T. David Zukerman.

[91] *Infra*, p. 113.

It is known that where ballots are used and the count of the vote is made after the closing of the polls, the counting process detains the election officers several hours thereafter, thus making a long day, and coupled with the tediousness of the work and in cases small compensation, the office becomes undesirable to many who now volunteer or allow themselves to be chosen when they know that where the machine is used they will be detained at the polling place only a short time after balloting ceases,[92] and that the arduous task of reading the markings on hundreds of ballots does not have to be endured.[93] This coupled with the greater care the appointing officials could use in selecting the officials should produce a decided improvement in the character of the election officers.

The use of the voting machine has some effects upon the county or city board of Election Commissioners. The extent of the appointing function is reduced, the duty of providing ballots and ballot boxes is taken away, and the canvass of the returns becomes a simple process. A reduction of the number of members on the board and of the office force is admitted and upon that reduction responsibility becomes more centralized. Because of the smaller number of members on the board, greater care can be used by the appointing authority in selecting appointees and should have its effect in securing better officials.

Where precinct election officers are elective what has been said above in regard to the improvement of the character of the officials does not apply. The use of the machine would not effect to cause the voters to select a higher type of precinct officials. The election of election officers, in cities at least, would still be controlled by the elements which now control such elections.

The same reduction in the number of officials could be made as where the appointive system prevails and the responsibility would be somewhat more centered within the election board. Especially would centering of responsibility be effected if the number were decreased to one elective official. If the elective system is to be retained such a centering of responsibility promises better results than the present system of loose responsibility,

[92] *Infra,* p. 130.
[93] *Infra,* p. 131.

and a big advantage of the voting machine in such a district is that it admits of such a concentration of responsibility.

The election officers of the division have the power to conduct all elections including general, special, city, incorporated district, and township elections, and all elections for electors of President, and Vice-President. The same officers conduct the primary elections. Their specific powers will be seen in the chapters on voting and returns.[94]

The law gives the election officers the power to have general conduct of the polling place during voting and the counting of the vote. It is made their duty to see that the provisions of law are carried out.

The powers and duties of precinct election officers under the appointive system correspond in broad outline to those of the precinct election officers of Pennsylvania. Because of the better method for securing boards with members of higher character under the appointive system, there is greater assurance that the powers and duties are better executed. And if in practice it is found that the powers and duties are not better executed by precinct officers under the appointive system, yet the appointive system maintains the advantage of locating responsibility for the undesired results.

At the polling place then in Pennsylvania, according to law, are required to be present one judge, two inspectors and two clerks under a method of selection which intended that the officers would be divided, three of one party and two of the other. The law furthermore requires the division assessor to be present during the whole time the polls are open. Any overseers appointed by the Court will be part of the group in the polling place, and further, each party may have watchers present, three at the election, two for each party or candidate at the primary, one of whom may be stationed in the polling room.

The table on page 98 shows to what extent the election boards are divided politically. The assessors who are elected by the voters of the districts are uniformly Republican. In Philadelphia, there is not a single Democratic assessor.[95]

[94] Election Laws of Pennsylvania, 1920, Chapter 26, Section 10.
[95] The situation was investigated for 1926.

The party in the majority in the district, which means the Republican party in Philadelphia, and in the second and third class cities, generally, are able to secure the election of assessors of that majority party. And it was seen that in Philadelphia, for the November, 1926 election, there were no overseers appointed. Nor were there any appointed in Delaware or Chester Counties each of which contains a third-class city.

Appointment of Watchers

It was intended to show the extent to which the polling places were equipped with watchers of the minority party, but the hostile attitude of the Secretary of the Board of County Commissioners in Philadelphia delayed the work so long that the registry books were taken to Washington before the study could be made. It is doubtful anyway whether the information could have been obtained from the County Commissioners' Office without a court order. Perhaps, if the information had been requested from the minority member of the Board instead of the Secretary, better results would have been obtained. The minority member in an interview set forth the method of appointment of watchers, and pointed out the great difficulty and often impossibility to get watchers in the districts entirely or almost entirely one-party districts.

Another authority in the minority party believes that 95 per cent of the watchers of the minority party appointed never appear at the polling places, and when it is known that there was no disbursement made to watchers for the November, 1926, election, the estimate of 95 per cent seems none too high. It can safely be assumed that practically all, if not all, of the polling places in the first seven wards were not equipped with Democratic watchers.

The effectiveness of supervision by watchers is questionable. Where watchers are not appointed by each party, or faction, as in a primary election, the system of supervision obviously does not operate. Where watchers of both parties are appointed the effectiveness of their supervision cannot be taken for granted.

In witnessing the count of the vote the watchers are required to remain outside the guard rail and the rail very often is a good

distance from where the count is being made. Mr. McGovern testified that it is very common in Allegheny County to have the ballot box far enough away, sometimes as far as forty feet away, so that the watchers would never know what was happening.[96]

For the November, 1926, election in Philadelphia, only 24 complaints of irregularities were made by watchers,[97] when it is known irregularities were numerous.

Furthermore, the system of watchers in Pennsylvania where the parties and candidates appoint the watchers has been used for certain abuses. The number allotted by law is exceeded in close contests and the increased number used as a form of vote-buying and for purposes of influencing and intimidating voters.

Testifying before the Senate Investigating Committee, Mr. McGovern stated that information which he had received from the Pepper and Vare Committees showed that the Pepper Committee for the primary election, May, 1926, employed approximately 35,350 watchers in Allegheny County at $10.00 each. The Vare Committee had approximately 14,140 at $10.00 each. In other words, there was an average of 25 per precinct for the Pepper Committee and 10 per precinct for the Vare Committee.[98] Or as Senator King pointed out[99] more than one-third of the total vote for Pepper and Vare, 148,113, was cast by watchers who were paid $10.00 each. It was a clear case of vote-buying by whatever name it may be termed.

A bill introduced by Mr. McGovern, in the special session of the legislature of 1926, proposed to abolish the system of watchers entirely, because the employing of watchers has become so patently a means of purchasing votes. The bill was defeated along with the other election bills.

In a bill now before the legislature, it is proposed to limit the expenditure for watchers to $10.00 per watcher.[100] Ten dollars, it was seen, is the prevailing price paid to watchers, and it has been found that many consider $10.00 sufficient compensation

[96] Hearings of the Senate Investigating Committee—testimony of Mr. McGovern, p. 106.
[97] Letter from Judge Edwin O. Lewis, of Common Pleas Court of Philadelphia, to author.
[98] Hearings of the Senate Investigating Committee—testimony of Mr. McGovern, p. 104.
[99] *Ibid.*, p. 107.
[100] Senate bill No. 546, 1927.

for their vote. It seems that the attempt to limit the compensation for watchers has for its purpose the protection of party leaders against exploitation by those whose votes the party leaders would like to obtain.

Summary

Supervision at the polling place, then, depends upon a bipartisan election board, bipartisan overseers, and watchers to represent the interests of the parties and candidates. The supervision obviously does not exist if the above factors are absent. The following table gives a composite picture of the means of supervision existing in some of the divisions of Philadelphia. For the corresponding divisions the assessment, registration, and vote are given in order to shed some light upon the results secured under the system of supervision. Watchers are not included in this table because exact information was not secured before the registry books were impounded.

NOVEMBER ELECTION 1926

Ward	Election Officers		Overseers		Assessment	Registration	% Reg. of Assess.	Vote	% Vote of Assess.	% Vote of Reg.
	Rep.	Dem.	Rep.	Dem.						
1	126	20	0	0	14,831	9,819	66	8,985	61	91
2	106	5	0	0	9,824	7,438	75	6,704	68	90
3	78	10	0	0	6,284	4,335	68	3,810	60	88
4	81	3	0	0	6,687	4,974	74	4,487	67	90
5	85	2	0	0	3,995	3,279	82	2,932	74	89
6	24	9	0	0	957	614	64	556	58	90
NOVEMBER ELECTION 1925										
28	128	46	0	0	23,886	11,998	50	10,513	44	87
44	121	41	0	0	17,873	8,572	48	7,503	41	86

The 28th and 44th wards were selected because those wards were among the leading ones at the November election, 1925, in the percentage of Democratic votes as compared with the Republican votes.

It can be seen in the above table that the percentage of assessed voters who register and cast votes is considerably higher in di-

visions where the forms of supervision established by the legislature least exist. The percentages given for the 28th and 44th wards are typical of the wards where some considerable minority representation is found. The percentage of the registered voters who cast ballots is slightly higher in the first six wards than in the 28th and 44th wards.

It is instructive to look within the divisions to see what supervision exists at the polling places and to examine the vote secured in the corresponding districts. The following tables for the 5th and 44th wards show by division the supervision existing and the corresponding assessment, registration, party, and total vote. The statistics for the 5th ward are for the November, 1926 election. Because the registry books had been impounded by the Senate Investigating Committee, it was not possible to secure 1926 statistics for the 44th ward. The statistics given are for the November, 1925 election.

FIFTH WARD

Division	Election Officers		Assessment	Registration	% Reg. of Assess.	Vote			% Vote of Assess.	% Vote of Regis.
	Rep.	Dem.				Rep.	Dem.	Total		
1	4	1	207	161	77	156	2	158	76	96
2	5	0	223	153	68	138	2	144	64	94
3	5	0	362	282	78	265	6	272	75	96
4	5	0	275	254	92	231	1	229	83	90
5	4	0	134	112	84	111	0	111	82	99
6	5	0	92	65	71	56	1	58	63	89
7	5	0	109	106	97	104	0	93	85	87
8	5	0	208	188	90	174	0	174	83	92
9	4	1	333	243	72	220	8	231	69	95
10	5	0	274	219	79	211	2	214	78	97
11	5	0	274	219	79	199	2	199	72	90
12	5	0	229	178	77	162	0	164	71	91
13	5	0	373	299	80	297	3	289	77	96
14	5	0	37	39	105	36	0	37	100	94
15	4	0	286	278	96	262	1	267	93	96
16	5	0	230	149	64	144	0	147	63	98
17	4	0	259	237	91	229	3	228	88	96
18	5	0	120	97	80	89	2	91	75	93

The total vote in some divisions is more than the combined vote of the Republican and Democratic vote due to votes for candidates of other parties.

The vote is that for Representatives in Congress.

FORTY-FOURTH WARD

Division	Election Officers		Assessment	Registration	% Reg. of Assess.	Vote			% Vote of Assess.	% Vote of Regis.
	Rep.	Dem.				Rep.	Dem.	Total		
1	5	0	586	409	69	261	1	268	45	65
2	5	0	625	303	48	218	23	243	38	80
3	3	2	656	306	46	169	31	223	34	72
4	2	2	647	282	43	140	42	204	31	72
5	4	1	527	346	65	270	4	274	52	75
6	5	0	337	211	62	101	34	148	44	70
7	3	1	603	201	33	112	10	124	20	61
8	3	1	845	279	33	172	9	225	26	80
9	3	2	353	180	50	93	29	143	40	79
10	3	2	373	198	53	105	28	160	43	81
11	4	1	547	244	44	99	42	172	29	70
12	3	2	312	163	52	84	22	133	41	81
13	3	2	422	208	49	117	23	177	42	85
14	5	0	413	263	63	230	4	238	57	90
15	4	0	234	203	86	169	3	180	76	88
16	3	1	493	293	59	216	13	237	48	80
17	4	1	482	184	38	194	52	160	33	87
18	5	0	795	325	40	221	29	278	35	85
19	3	2	513	201	39	111	28	155	30	77
20	3	2	343	165	48	85	15	118	31	71
21	3	2	549	331	60	168	41	253	46	73
22	3	2	768	410	57	201	70	327	42	79
23	3	2	710	311	49	150	39	246	34	79
24	5	0	632	221	35	125	19	175	27	79
25	4	1	453	251	56	121	27	194	42	77
26	3	2	934	274	29	131	31	215	23	78
27	3	2	399	151	38	63	28	97	25	64
28	5	0	598	226	38	94	41	173	29	76
29	3	2	633	207	32	105	22	145	23	70
30	3	2	546	280	51	157	34	224	41	80
31	3	0	472	313	66	182	70	278	59	88
32	4	1	632	359	57	220	9	238	37	66
33	3	2	337	197	58	115	29	165	49	83
34	3	1	490	282	57	149	57	234	48	83

A difference exists between the total vote and the total Democratic and Republican vote because of votes cast for candidates of other parties. The vote is for the City Treasurer—November, 1925.

It can be seen that where the minority party had its full quota of officers on the board, the registration as compared with the assessment, and vote as compared with the assessment, are much lower than where one-party boards exist. With the exception of one division in which the percentage of the vote as compared with the assessment was 49 per cent, the vote in divisions where

the election board was divided three of one party and two of the other ranged from 42 per cent of the assessment downward.

In one-party divisions in the fifth ward the vote ranged from 63 per cent of the assessment to 100 per cent. In the 44th ward were several one-party election boards with percentages considerably lower than those for one-party boards in the fifth ward, which lower percentages are most likely due to the presence of watchers in those divisions.

It can be seen that an extremely decentralized system exists for the supervision of the conduct of elections and making of returns in Pennsylvania. The county and precinct authorities are set off from the state authorities by Constitutional provision.

The precinct officers upon whom the kind of elections largely depend are responsible to no authority unless called into court for gross irregularities. Moreover, there is a lack of unity throughout the system as shown by the existence of separate offices for registration and conduct of elections, different canvassing boards for the primary and general elections, and separate precinct boards for registration and conduct of elections.

Examination shows that some of the methods of supervision established by the constitution do not operate in a great many election districts. Because the methods have been placed in the constitution the legislature is prevented from experimenting with new methods, although it can safely be said that the legislature as constituted at present, if free to act, would do little experimenting with methods which promised to improve conditions.

In the large number of districts which are almost wholly one-party districts it seems that supervision by state authorities of the nature existing in New York State prior to 1921 would produce good results if the system could be kept free from political control.

It is clear that the lines of responsibility need to be strengthened all along the way, and to accomplish that purpose a reorganization of the whole system is needed. Recommendations to that effect will be set forth in the final chapter.

CHAPTER III

Voting

This chapter will present a study of the process of voting from the time the registry books are received by the election officers on election day until the vote is cast by depositing the ballot in the ballot box, or, where machines are used, until the voter moves the lever which records the vote. The study will deal chiefly with cities and counties where personal registration exists.

The process falls into several steps and will be considered in that manner. First the problem of the determination of the applicant's right to vote will be examined. That problem divides into three problems—determining whether the applicant has registered, substitution, and challenging. Substitution may be effected for false registrants or for those who are legally registered but do not go to the polls to cast their ballots.

In the second place, the problem of furnishing the ballot to the voter will be considered, and thirdly, the problem of marking the ballot. In the latter step assistance to the voter is the chief problem.

In each step of the process it is the purpose to determine the method of supervision which has been established by law and to see how that method has operated.

Determining the Right to Vote

It is necessary in the first place to have a clear idea of the nature of the records submitted by the Registration Commissions in Pennsylvania to the election officers as an aid in determining a person's right to vote.

Where personal registration exists, that is in first-, second-, and third-class cities, two books, the Ballot Check List and the Voters Check List are delivered to the election officers. Each book contains a list of those having duly registered for the election, and certain information about the registrants designed to aid identifi-

cation.[1] The books differ in that the registrants have affixed their signatures in the Voters Check List. On the line below the last registered name for each letter in the books are written the names or initials of the district registrars.

At the opening of the polls at all elections the judge of elections designates one of the inspectors to have custody of the Ballot Check List and the other inspector to have charge of the Voters Check List.

A person desiring to vote gives his name and residence to one of the clerks in charge of the ballots, who thereupon announces the name, and the inspector in charge of the Ballot Check List checks to see if the name is on the Ballot Check List, and, if so, he audibly repeats the name, and the person, unless challenged, is allowed to enter the guard rail, receive a ballot, and enter a voting booth. When a ballot is given to the person the letter "B" is placed beside his name in the Ballot Check List. Also the person's name is checked in the Voters Check List. The Registration Commission in going through the books after the November, 1926, election found that the simple matter of checking the names when the ballots were delivered was not performed in some districts. In 1926 the names were not checked in five divisions. In 1925 in 28 divisions the election officers neglected to check off the voters as required by law.[2]

The person's right to vote may be challenged by the election officers if his name is not found on the list. It may, furthermore, be challenged by any other voter, any watcher, or overseer.

It can be seen, therefore, that registration is a vital factor in securing fair elections. If registration has been done properly then the presence of a person's name on the registration books is proof of his right to vote, unless the person has become disqualified after registration day. If registration has been done properly there will be no false registrants on the lists and accordingly a big opportunity for substitution has been eliminated. The problem then becomes one of making certain that the person giving a name when applying to vote is the same person as the one who registered, and determining whether the person has be-

[1] Reports of Registration Commission, Philadelphia and Pittsburgh.
[2] Report of the Registration Commission, 1925, p. 15.

come disqualified after registration. As stated in the "Model Registration System," [3] "identification of voters at the polls is one of the prime purpose of registration. An effective positive identification of every person applying to vote as to whether he is the identical person registered constitutes the most effective means of preventing voting frauds."

But although registration has been done properly there still remains possible the other form of substitution. Ballots may be cast by substitutes, or by the election officers, for those who are legally registered but who do not go to the polls to vote.

For the second method of substitution the registrars cannot be held responsible. And similarly the election officers cannot be held responsible for substitution due to false registrations, unless by law a method has been provided whereby such substitutions can be detected by the election officers.

The law gives to election officers the authority to challenge any person's right to vote, although the name he gives appears on the registry lists. Also such a challenge may be made by any qualified voter of the district, watcher, or overseer.[4] The law does not require the person to sign his name when he receives a ballot and consequently the best method of detecting substitution is not given to the election officers. If the law required the person's signature before receiving the ballot which could be compared with the signature in the Voters Check List, made at the time of registration, an effective method of preventing substitution for false registrants would be afforded. And also would the method be equally as effective for the prevention of substitution for persons who have registered but do not vote.

The "Model Registration System" [5] declares that "the use of the signature is the ideal method of identification. It is positive, can be applied readily to every voter, and gives rise to no sound objections." Specification I of the section entitled "Identification of the Voters at the Polls" requires "all voters to be positively identified at the polls by requiring them to sign their names

[3] Model Registration System, *National Municipal League Review,* January, 1927, p. 84.
[4] Penna. Statutes, 1920, Sections 9859, 9866, 9867.
[5] Model Registration System, *National Municipal League Review,* January, 1927, p. 85.

when they apply to vote, and by comparing the signature with that on the registration record."

The only argument advanced which contains any measure of validity for not requiring a person's signature before receiving the ballot is that the process of making the signature and comparing the two would take time and thus delay the voting. But when the short time required for making a signature and making the comparison is kept in mind the argument is not impressive, especially when its successful use is seen in other states.

In New Jersey the voter is required to write his name in the poll book and the law requires the signature to be compared with that in the registry book before the ballot is delivered. In New York State, in cities of over 15,000 population, the voter before receiving a ballot is required to sign his name in a copy of the register containing no signatures made by voters before the election. The latter provision is inserted to prevent imitation. The law requires a comparison of signatures made at the time of registration and election to be made.[6] From a visit to the Board of Elections in New York City, the impression was received that the signature requirement is one of the basic methods in preventing fraudulent voting.

There can be little doubt that this provision, requiring the person's signature before delivering to him a ballot, has had its due share in promoting the fairer elections of New Jersey and New York.

If the election boards of the precinct were one-party machine-controlled boards, as in so many divisions of Philadelphia and Pittsburgh, and if the County Boards of Election were similarly one-sided, then the signature requirement would have little effect unless a close review was later made by some authority, for there would be no real comparison of signatures. But where independent or bipartisan boards exist the signature requirement becomes a real factor in the prevention of substitution.

A person who knows that the signatures in themselves are sufficient evidence for prosecution, if used illegally, will hesitate to place his signature where it should not be, and especially will he

[6] Election Laws of New York, 1925, p. 113.

be deterred if some authority scrutinizes the lists and makes prosecutions where the signatures do not agree.

The argument used in Pennsylvania to prevent such a requirement being established that too much time would be consumed in the process is urged by those who profit most by the present system.

In New York City, Mr. Paxton, of the Committee of Seventy of Philadelphia, made a check at one of the polling places to determine the time required to vote, which included on the part of the voter the signing of the name and voting by means of a voting machine. During 40 minutes in which he made the check 48 voters established their right to vote, signed their names, and voted. The argument that too much time is consumed cannot be seriously urged. In the "Model Registration System" is the statement that the best answer to the argument that the signature operation slows the process of voting is its successful operation in New York City and other cities of New York State, Omaha, several cities in Minnesota, and the state of California. Also it is successfully used in New Jersey. It has not been found that the signature slows up the process. Election officers state that not a single complaint of this kind occurs in practical operation.[7]

Another argument which has been brought forth is that the type of election officers now obtained do not have the ability to compare signatures. While there may be truth in the assertion, it can hardly be put forth as an argument against the validity of the system of requiring signatures before receiving ballots. Rather is it an argument against the method of selecting election officers which secures such a type of officer. If a competent Board of Election Commissioners exists in the county or city to examine the signatures after the election, the system would yet be effective although there was neglect in examining the signatures at the polling place. The Board would have evidence sufficient for prosecution where illegal signatures appeared.

Attempts have been made to introduce the signature requirement in Pennsylvania. In the special session of the Legislature of 1926 a bill was introduced providing for the requirement of the

[7] Model Registration System, *National Municipal League Review*, January, 1927, p. 85.

voter's signature before receiving the ballot. The bill was defeated along with the other election bills. A similar bill has been introduced in the present Senate, 1927, but has not been acted upon.[8]

It was seen above that the inspectors [9] have charge of the Ballot Check List and the Voters Check List. It was also seen [10] that under the system of election it was intended that the inspectors would be of opposite political parties and that the two inspectors in determining a person's right to vote would act as a check upon each other. But it was shown [11] that the method of election often fails to secure inspectors divided politically, and in such cases, obviously, the check does not exist. Moreover, the system fails to provide a check in the districts in which there is greatest need of such. Because the appointive system promises to better maintain bipartisan precinct election boards much greater favorable results in determining a person's right to vote comes about. Especially is such the case in New Jersey and New York, where the appointing power is not limited to appointees within the precinct when appointing a board for the precinct.

But it should be noted that even where the inspectors are divided politically and the check does exist, unless a personal acquaintance with the voters is had by the inspectors in Pennsylvania where the signature is not required, they have no effective means for determining whether or not the persons seeking to vote are the ones who registered except the aid furnished by the information noted after the applicant's name, that is, age, residence, occupation, term of residence, native born or naturalized, sex, and showing when last registered. "The signature," says Harris, "is a better means of identification than all the personal items. . . . It is simple, easily secured and affords one of the most effective means of identification which can be secured. The fact that the signature is relied upon as a means of identification in business is proof of its effectiveness." [12]

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[8] Senate Bill No. 565, 1927.
[9] *Supra*, p. 83.
[10] *Supra*, p. 61.
[11] *Supra*, pp. 62–63.
[12] Harris J., Study of Registration, p. 275. U. of Chicago Ph.D. thesis, 1922.

The legislature, in other words, has not given to the election officers sufficient means for determining a person's right to vote.

A person's right to vote may be challenged also by watchers, overseers, or qualified voters of the district. It has been shown [13] that the provision of law allowing the appointment of overseers by the Court of Common Pleas is a dead letter, it is never used, and consequently that form of supervision needs no consideration.

It was seen also to what extent the provision allowing the appointment of watchers is used by the minority party.[14] The supervision derived from the appointment of watchers by the minority party in many districts of Philadelphia, Pittsburgh, and other similarly one-party districts is negligible.

Lastly the law provides that challenges may be made by the qualified voters of the division. But the law also requires the voters, as soon as their ballots have been cast, to leave the polling place immediately. It is obviously impossible for the voters to know what transpires within the polling place. It is too much to expect that voters are going to remain outside the polling place to insure, even if it were possible, that only those qualified shall vote. Especially is all faith in supervision by the electors given up in districts which are wholly one-party districts of which there are a considerable number in Philadelphia,[15] and many more in which there are only a few voters of the minority party.

The law requires that a challenge affidavit be made out in every case of challenge, and such as are made out are required to be placed in the ballot box. It is, therefore, impossible to secure statistical data as to the number of challenges made. But in districts where election officers and watchers are of one party it can be stated with confidence that challenges are rare. It was seen [16] that only 24 complaints were made by watchers at the November, 1926 election when, it is known, election irregularities were numerous.

Moreover, were overseers, watchers, and individual electors present to witness the casting of the ballots, the only basis for making challenges, as with election officers, would be their personal

[13] *Supra*, p. 59.
[14] *Supra*, p. 76.
[15] *Supra*, p. 59.
[16] *Supra*, p. 77.

knowledge of the voters of the division. Where strong opposing parties exist watchers who know the voters of the division are appointed, but in districts with a weak minority party such appointments are not forthcoming.

Furthermore, in case of challenge a majority of the election officers decide the case. Therefore, in districts such as Philadelphia and Pittsburgh where the Republican party has a majority on nearly all division election boards, it can be seen that a challenge by the minority members of the board, if any, may then be overruled. If the challenge is made by watchers it may result in an affidavit being made by the applicant, upon which the applicant is entitled to vote.

If there were some authority to scrutinize the challenge affidavits which are made in the divisions, to see whether the challenged person who has made affidavit is a qualified voter, and to prosecute the case if examination proves he was not, another step would be taken in the prevention of substitution. But, as was stated above, the law requires the challenge affidavits to be placed in the ballot boxes and thus no examination of the affidavits is made.

In Illinois the affidavits are required to be returned with the poll books to the Election Commissioners.[17] In New York and New Jersey where the voter's signature is required before receiving the ballot the word challenged is written beside the name of the person challenged. No affidavit is necessary, and the information necessary for investigation to determine the validity of the challenge appears on the poll books. A similar method is used in Ohio, Missouri and Michigan.

Such a method has advantages over the system in Pennsylvania, where the affidavits are locked in the ballot box. The Boards to whom the poll books are returned have the evidence at hand regarding challenges and can undertake investigations to determine the validity of the challenges.

Where the challenge affidavits are placed in the ballot box there is no fear of a challenge to one wishing to vote illegally. And where election boards are one-party boards the making of the affidavit is a mere formality.

[17] Election Laws of Illinois, 1925, p. 141.

With the existing difficult method of opening ballot boxes there is but a very rare chance that the affidavits will be examined.

The conclusion here with regard to challenges is that the present system of challenges operates with considerable success in districts where strong opposing parties exist or in primaries where strong opposition exists within the same party. But in one-party districts, especially where the election officers are all of one party, the system does not operate.

In New York while the system of supervision by means of the State Superintendent of Elections and his deputies existed, an important part of their work was to aid in the determination of the right to vote. After registration the deputies investigated those registered to determine whether they were legally qualified voters. When a person was deemed not to have a legal right to vote his name was placed on a challenge list which was delivered to the election officers at the polls on election day. In 1919, 8,385 names were placed on the challenge list.[18] On election day the deputies, when visiting the polling places, were instructed to observe whether the challenge list was being used by the election officers. Of the 8,385 placed on the challenge list in 1919, 589 were found qualified to vote on election day, 89 were refused the right to vote, 7,707 did not appear to vote.[19]

The requirement that the registration list be checked by the deputy supervisors was criticized on the ground that a dual check was thereby set up because the police also were required to check the lists, and it was contended that there was an unnecessary expenditure. While there is no doubt that a single check would be less expensive, it is not felt by those who take an impartial view that the check by the police is an efficient system. In that respect the state authorities did much valuable work.

It can be seen throughout the method for determining a person's right to vote that the responsibility for making such determination has been placed by law upon the political parties primarily by insuring that their proper quota of officers shall be on the election board and that watchers shall be stationed at the polling places. Part of the responsibility is placed upon the qualified

[18] Report of State Superintendent of Elections of New York, 1919 p. 50.
[19] *Ibid.*, p. 50.

voters to petition the Court of Common Pleas to appoint overseers, and to challenge those not qualified to vote.

The responsibility for challenging voters is generally among other states, as in Pennsylvania, placed upon the election officers, watchers or challengers, special inspectors if any, and individual voters. The principle of bipartisanship is relied upon generally to maintain the effectiveness of the system of challenging the right to vote. Where the county or city boards, with power to appoint election officers and watchers exist which results in securing boards of election officers and watchers in fact divided politically, the system of challenging is more effective.

Some supervision may exist in the Registration Commission to whom the registry books are returned after the election. The Commission does not have signatures to compare, but if it can secure the funds from Council, may undertake investigations to determine whether ballots were cast for voters whose names were on the registry lists but who did not go to the polls to vote, although such investigations are not considered a part of the registry function.

Such an investigation requires a personal examination of the voters of the divisions and some investigations of that nature have been made along with the checking of the registration list, showing many cases where ballots had been cast for voters who did not go to the polls.

The results of certain investigations in a few districts of Philadelphia serve to indicate what would be discovered if a total investigation could be made. In one division of fifteen names selected at random from those checked as having voted on the registration list twelve were interviewed. Of the twelve, five declared they had not cast ballots. Whether or not conclusions can be formed on such limited data, which is reliable, surely it is sufficient to prompt investigation.

The Registration Commissions of Philadelphia and Pittsburgh depend upon the city councils for appropriations and have had great difficulty in securing adequate funds. Repeated requests of the Registration Commission for funds were not heeded by the City Council of Philadelphia at the close of the year 1925. The Comissioners in order to perform their duties in purging

the registration lists were compelled to borrow money upon their individual credit.[20] Other pleas in 1926 to secure funds to reimburse for that already spent and for additional work were continually put aside until the Commission instructed its attorney to institute mandamus proceedings against the Mayor and Council requiring the necessary appropriations. The appropriation was made preventing the action coming to trial.[21]

At the end of the year 1926, the Commission was again appealing to the Council for funds. No response was made by the Council and mandamus proceedings were again instituted. The action was pending at the beginning of 1927.[22]

Because the appropriations have been so meagre no extensive investigations have been possible. The limited appropriation scheme is another method by which the representatives of the political machine who profit by the conditions at the polling places act to maintain the status quo. And furthermore the Registration Commission can rightfully maintain that it cannot be held responsible for illegal voting if it has properly made registrations. The Commission can rightfully maintain that it is its function to register voters as prescribed by law, and having done that they cannot be held responsible if votes are cast by substitutes for those duly registered.

If such frauds are committed the responsibility therefore falls within the province of those who have charge of the conduct of elections. The County Commissioners assert that they cannot be expected to take the responsibility since they possess so little control over the election officers, and they cannot be expected to make investigations after the election because the registry lists are returned to the Registration Commission. The situation is a clear illustration of how the system of separate boards for registration and conduct of elections leads to inaction and shifting of responsibility.

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[20] Report of the Registration Commission of Philadelphia, 1926, p. 1.
[21] *Ibid.*, pp. 1 and 2.
[22] *Ibid.*, p. 6.

Collusion between Registrars and Election Officers

Because of the great number of false registrations in many divisions, it seems clear that collusion between the division registrars and division election officers exists.[23]

The law forbids any person to hold the position of registrar and election officer. But in practice many do. In 47 divisions of the fourth, fifth, sixth, and seventh wards in Philadelphia, where a check was made, it was found that 35 who served as election officers for the November, 1926, election had also served as registrars at the registration prior to the election. In other words, 18 per cent of the registrars for those divisions were also election officers. The practice is not confined to wards such as the fourth, fifth, sixth, and seventh. In 65 divisions of the 28th and 44th wards, which were examined also, it was discovered that 48 who had served as election officers had served as registrars at the previous registration. Again, in those divisions, 18 per cent of the registrars were also election officers. It is safe to assume that such a condition prevails in most of the districts of Philadelphia.

But it is not necessary to have persons acting on both boards to have collusion. An intermediary, usually the division leader, can bring about the desired results. The fact that a large number of false registrations are placed on the registry list is prima facie evidence that ballots will be cast for those names at the election. Large numbers of false registrations are prima facie evidence of collusion between the board of registrars and the election board.

It was hoped that by having separate boards for registration and the conduct of elections an effective check would be maintained. And in districts where strong opposing parties exist the two boards act as a check upon each other to some extent, but the shifting of responsibility which results in the two-board system, even where the boards are divided politically, offsets the good results that might be obtained. In one party districts of the nature of Philadelphia and Pittsburgh, the check does not operate and the shifting of responsibility is prominent.

Registrars, as with the election officers, must be qualified voters of the divisions in which appointed, and accordingly in many di-

[23] A total of 11,869 names were stricken from the registry list in 1926. Report of the Registration Commission of Philadelphia, 1926, p. 2.

visions difficulty is experienced by the Registration Commission in securing members of the minority party for the board. Often, although the law requires that not more than two of the four members of the Board shall be of one party, all are in fact of one party.[24]

The system then of having separate boards operates to conceal responsibility and thus increase irregularities at the polling places. The election officers aver that they cannot be held responsible for substitution for false registrants, especially since the law does not give them an effective method for determining an applicant's identity; and the registrars reply that they cannot be held responsible for substitution for those who are properly registered but do not vote.

From the standpoint of fair elections there is no good defense which can be brought forth for the two-board system. Some recommendations with respect to combining the functions in one board will be discussed in Chapter V.[25] It was seen in the second Chapter that Pennsylvania, among the densely populated states, stands alone in maintaining the two-board system.

Furnishing Ballot to Voter

After the voter has established his right to vote he is given a ballot by one of the clerks and the letter "B" is written beside his name in the Ballot Check List. Also his name is checked in the Voters Check List. The ballot is torn from a stub and thus a record is kept of the number of ballots issued. There is no record of the number of the ballot made on the registry list when a ballot is issued to a voter.

Because there is no record made of the number of the ballot issued, it is evident that there is no way of knowing whether the voter deposits in the ballot box the one issued to him. He may drop in the box one marked by the division leader or other party worker. The lack of such a provision, that a record be kept of

[24] In their 1926 report, the Registration Commission of Philadelphia stated that "the theory that minority representation on the local boards will secure a check on the majority party breaks down in localities where there exists no active evidence of real minority party. . . . In such divisions, it is recommended that the Registration Commission should have the power to appoint registrars from other parts of the city."

[25] *Infra*, p. 145.

the number of the ballot, does much to perpetuate the "chain" system of voting.

A provision like that in New Jersey whereby the ballot given to the voter is required to be numbered with the poll number of the voter proves effective in assuring that the voter returns the ballot he receives. After the voter has marked his ballot and before placing it in the ballot box, the number is audibly read by one of the election officers and a check is made to see if it corresponds to the voter's number in the poll book.

An additional safeguard is provided by having consecutively numbered coupons attached to the ballots which are removed before the ballots are placed in the box and are strung in order by the election officers.

In Ohio, when the person desiring to vote gives his name and residence to the election officer in charge of the ballots, the same are written upon the main stub of the ticket. The person's registered number is at the same time written upon the secondary stub of the ballot. The ballot with the secondary stub attached is then detached from the main stub and delivered to the voter. After marking the ballot the voter returns it to one of the judges of election who is required to examine the secondary stub containing the voter's registered number, and then audibly announces the voter's name. If the judges are satisfied that the person has a right to vote the secondary stub is detached and the ballot placed in the box. The clerks of election at the same time enter the name and number of the voter in the poll book.

A similar method is used in New York State. The ballot has attached thereto a stub on which appears a number. When a voter receives a ballot with the stub attached, the number is announced by one of the inspectors, and the number is written beside the voter's name in the two poll books. After the voter has prepared his ballot and has offered it to one of the inspectors, the inspector announces the name of the voter and the number appearing on the stub. The officers in charge of the poll books check to see if the number called corresponds to that beside the voter's name in their books.[26]

The value of such methods to break up the system by which

[26] Election Laws of New York, 1925, p. 120.

the division leader or other party workers mark the ballots for voters is apparent. The encorcement of any of the above methods would put an end to the so-called "chain" system of voting.[27]

But here again such provisions would not prevent the "chain" system in divisions having one-party election boards. And furthermore, in such divisions the fact that a record, by means of stubs, is kept of the number of ballots issued, as in Pennsylvania, is of no consequence. It is no difficult matter in such divisions to see that the number of ballots and the number of names checked on the registry agree. The use of voting machines obviously does away entirely with ballots and more will be seen later of the effects of such a change.[28]

Marking the Ballots

In marking the ballots the chief point for consideration is assistance to voters. The voter in Pennsylvania at the general election marks his ballot alone in secrecy unless he declares to the judge of election that by reason of any disability he desires assistance in the preparation of his ballot. In such a case the voter may select a qualified voter of the district to assist, such assistance to be given in the voting compartment.

There are considerable differences of opinion among the states as to whom assistance should be given. In all the densely populated states assistance is provided for voters physically disabled. The differences of opinion arise upon giving assistance to illiterate voters. In ten states voters unable to read the English language are denied assistance.[29]

It is contended by those restricting assistance to the illiterate voters that a man too ignorant to vote correctly is not capable of forming an intelligent opinion, and therefore is not worthy of voting; that by allowing assistance to such voters it is made possible to know how such votes are cast and consequently corruption is promoted; and that to deny the right to vote to illiterates is to stimulate their interest in education.

[27] For a discussion on this point see "History of Australian Ballot System in the U. S.," E. C. Evans, 1917, p. 49.

[28] *Infra,* p. 129.

[29] Ohio, Maryland, Connecticut, Delaware, Vermont, Florida, Tennessee, South Dakota, Arizona, Nevada.

The arguments for giving assistance to the illiterate voters are largely refutations of the arguments against. Such a voter, it is asserted, has as much right to vote as the educated person, and to deny assistance is to disfranchise him; that there is little danger of corruption, as the election officers are bound to secrecy; and that without assistance the illiterate may void his ballot or vote for a candidate not of his choice.

It has been sufficiently demonstrated that one of the chief avenues for using undue influence in the casting of the ballots is through assistance to voters. Such influence may be used upon the disabled voters and the opportunities for such influence are increased by extending the assistance provision to illiterate voters.

Where illiterate voters may be assisted the difficult problem of determining which are illiterate arises. In many election districts in large cities, the party workers would be able to have a high percentage of the voters on such a list.

On the other hand, it is clearly recognized that a denial of assistance to illiterate voters, when the definition of illiteracy runs largely in terms of ability to read English, will in many cases hamper voters who have worth-while opinions. If impartial, honest assistance can be provided it seems that some assistance should be allowed. But where supervision is as faulty or nonexistent as at many polling places at present with the high probability that impartial assistance would not be given, and often would lead to outright fraud and intimidation, the bad effects would far outweigh the good results that might be obtained.

The qualified voter selected to give assistance in divisions of Philadelphia, Pittsburgh, Scranton, and the larger third-class cities is usually the division leader or other party worker. Almost without exception in Philadelphia, the division leader holds a watcher's certificate and consequently he is always on hand to give assistance. This generous assistance clause is one of his chief means of delivering the vote demanded by the ward leader.

There is no affidavit required of those who receive assistance in the general election, and no record kept of the number of cases of assistance. An affidavit is required at primary elections stating that the person seeking to vote cannot read the names

on the ballot or is physically unable to mark the ballot.[30] Statistical facts, therefore, cannot be obtained for the general election. It is generally known that only in cases of challenge or where challenge would be most likely are affidavits made at the primary elections. In precincts where a one-party situation exists at the polling place it can safely be assumed that challenge affidavits would not be made out, as the County Commissioners in a county containing a third-class city stated, "they (the election officers) do not bother with that."

Because there is often a contest within the parties at the primary and candidates have watchers at the polling place, assistance is not given as freely at the primary as at the general election. But from interviews with election officers and others who have observed conditions at the polling place it is known that in many districts assistance is given freely, in many cases when not requested. As an election officer expressed it, "the division leader went into the booth with nearly every voter" and when asked if any objected said that "a few objected but the election officers just laughed at them."

It is safe to assume that in districts where the election officers are all of one party at the general election assistance is given freely with no relation to the disability of the voter. It is obvious that such a condition breaks up the secrecy of the ballot, leads to intimidation of the voter, and offers open opportunities for bribery. It offers to the party workers the opportunity to discover whether the votes paid for are delivered.

"Under the pretense of rendering assistance," says the Committee of Seventy, "political workers force themselves upon voters and dictate how they shall vote." A change was suggested in the method of giving assistance by the Civic Club of Allegheny County, which submitted an amendment to the Commission on Constitutional Amendment and Revision in 1920. The amendment provided that an affidavit had to be made in every case of assistance. The Commission took no action on the amendment.[31]

The Committee of Seventy-Six, appointed by Governor Pinchot

[30] Laws of Pennsylvania, 1920, Section 9687.

[31] Proceedings of the Commission on Constitutional Amendment and Revision, 1920, p. 133.

to study the election system of Pennsylvania and to suggest legislation for needed changes, submitted a bill to the special session of the legislature in 1926, providing that "assistance to voters be restricted to cases of actual inability to mark the ballot." The bill was killed along with the other bills designed to improve elections.

A bill has been introduced in the present legislature regarding assistance to voters.[32] The voter desiring assistance is required by the bill to state under oath that he cannot read the names on the ballot or that by reason of physical disability he is unable to see or mark the ballot or to enter the voting compartment without assistance. The voter thereupon is permitted to select a voter of the election district to assist, such assistance to be given in the voting compartment. The judge of election is required to enter in a book to be known as the Record of Assisted Voters, the name of the voter, reason for assistance, and the name of person furnishing assistance. The Record of Assisted Voters is required to be returned to the Prothonotary's Office in the case of a general, municipal, or special election, and to the County Commissioners in the case of a primary election.

The method provided in the bill, if enacted, would be an improvement over the present loose method of giving assistance. It does not, however, equal the system used in New York where the need for assistance must be stated at the time of registration.

But if proper supervision existed at the polling places and in the office to which the Record of Assisted Voters is returned, a great deal of improvement could be expected should the method in the above bill be adopted.

Since in many districts there are one-party election boards it is safe to assume that there would be many cases of assistance which would not be recorded. There would be many cases where, as at present, the election officers allow the division leader or party worker to remain in the polling place, offer advice to the voters as they go to the booths, or even to step into the booth with them when assistance has not been requested.

And then there would be little, if any, checking of the Record of Assisted Voters which was returned to the Prothonotary's office

[32] Senate bill No. 544, 1927.

unless done by individual voters or an independent organization. Similarly would there be little scrutiny of the Record returned to the County Commissioners for the primary election. In counties such as Allegheny and Philadelphia there would be practically none.

If the need for assistance was required to be stated at the time of registration and noted in the registry books, the Registration Commission would have before it the information necessary to make investigations, and some results in that respect would be expected. There would stand out the advantage of investigating for the purpose of preventing unlawful assistance, rather than holding post mortems to decide where such assistance was given.

Again does Pennsylvania, with the exception of Massachusetts, stand alone among the densely populated states in maintaining such a liberal method by which voters may secure assistance in marking their ballots.

In New Jersey a voter is required to establish to the satisfaction of a majority of all members of the election board that he is unable to read the English language or that by reason of blindness or other physical disability he is unable to mark his ballot without assistance. In such a case he may secure the assistance of two members of the board who are required by law to be of opposite political faith, such members to be assigned by the board. In case of blindness the voter may select some person of his own choice to assist him in marking the ballot.

In all cases where assistance is given an entry is made in the poll book, which entry is in the form of an oath, and the entry is numbered with the voter's number, the facts sworn to are required to be stated, and the names of the officers giving the assistance are shown.

In Ohio a similar method is in use. The voter who has convinced the presiding judge of elections that because of blindness, paralysis, extreme old age, or other physical infirmity, he is unable to mark his ballot may receive the assistance of two of the election officers of the opposite political parties.[33] The presiding judge may require the voter to declare his disability under oath.

In Missouri the assistance is given openly by the election officer

[33] Election Laws of Ohio, 1924, p. 137.

having charge of the ballots, who, in the presence of the voter and the other election officers marks the preferences of the voter on the ballot.[34]

In New York the voter who has established his need for assistance may choose two of the election officers, not of the same political faith, to give the aid, except that at a primary the officers chosen may be of the same party. If the physical disability is plainly visible the voter may have the assistance of a relative instead of the election officers.

An entry is made in each of the two poll books when assistance is given showing the name of the officer or person who gave the assistance and the reason for such assistance.

An important feature of the New York system of giving assistance to voters is the strict method by which the voter must establish his need for assistance. A voter may have assistance if at the time of registration he had made oath of illiteracy or physical disability and claims on election day that he is still unable to prepare his ballot without assistance for the reasons stated in his oath; or that under oath he states to the inspectors on the day of election that by reason of some accident, the time and place of which he must specify, or disease, the nature of which must be stated, he has since registration day lost the use of both hands, or has become totally blind, or so blind that with the aid of glasses he cannot see the names printed upon the ballot, or so crippled that he cannot enter the booth without assistance.[35]

Such a method of requiring the need for assistance to be established at the time of registration has several advantages. It requires that if the division leader or other party worker wishes to give illegal assistance on election day he must be on hand at the time of registration to prompt the desired number which he would like to assist to make oath at that time that assistance is needed. And then it gives to the election board of the precinct, or the Board of Election Commissioners, the opportunity to investigate to determine whether assistance is needed where asked. If the number were small such an investigation would not be likely, but if the number appeared so large that it seemed there was

[34] Election Laws of Missouri, 1924, p. 109.
[35] Election Laws of New York, 1925, p. 114.

intent to give illegal assistance the party members of the precinct board or Board of Election Commissioners would force an investigation.

The method used in New York operates very satisfactorily. Information received from a reliable source states that there is an average of one case of assistance for every ten election districts.[36]

In Michigan the voter who establishes under oath his need for assistance is given assistance by two inspectors of election. The name and address of the voter is entered on a form and signed and certified as correct by each member of the election board.[37] Michigan changed to the present system after its cities had passed through conditions at the polling places similar to those now prevailing at the polling places in Pennsylvania cities.

Prior to 1915 the law, similar to the Pennsylvania law, prescribed that any man professing to be illiterate or physically disabled might ask for and receive assistance in marking his ballot by some member of the election board. Under such a law in some of the controlled precincts as many as 75 per cent of the voters were assisted in marking their ballots. According to Mr. Millspaugh, "assisting was one of the most serious evils in Detroit elections." [38]

In Wisconsin a voter receives the aid of two inspectors of election of opposite political parties after establishing his need for assistance. In cases of total blindness the voter may choose another voter instead of the election officers. In the poll book a note is made after the person's name that assistance was obtained and from whom obtained.[39]

Again in Illinois assistance to voters is furnished by two election officers of different parties. A memorandum of the fact that assistance was given is noted after the name of the voter in the poll book.[40]

It can be seen that the general method among the densely pop-

[36] Letter from Hugh Cole, Board of Elections, New York, to the author, March 26, 1927.
[37] Election Laws of Michigan, 1926, p. 100.
[38] Party Organization and Machinery in Michigan since 1890, Arthur C. Millspaugh, *Nat. Mun. Rev.*, 5:620, 1916.
[39] Election Laws of Wisconsin, 1925, Section 6:39.
[40] Election Laws of Illinois, 1925, p. 96.

ulated states is to furnish assistance by two of the election officers and that the method of establishing the need in some states is much superior to the system in Pennsylvania. And, further, the general practice is to make note of the cases of assistance so that the authority which scrutinizes the poll books can see to what extent assistance has been given, and to have the information as a basis for investigations if so desired.

The method of assistance in Pennsylvania has for a long time been condemned by those interested in fair elections. Writing in the *Annals of the American Academy* in 1909, Mr. Woodruff asserted that the assistance clause " has been generally used by machine workers to control the easily intimidated vote. Where there is any doubt as to how a subservient voter intends to mark his ballot, or where there is any doubt as to his ability to mark it, the worker insists that the voter take him into the voting compartment. Very often it is made a condition. . . . It is not an unusual sight in some sections for the boss of the division to go in with every office-holder." Some statistics showing the extent of assistance were given by Mr. Woodruff. " In one division the boss marked 35 ballots, in another the boss of the division assisted 112 voters, in another where there were 158 voters of Italian birth to 8 of American or Irish birth the ballot of every Italian was marked by one of the Irish-American voters." The returns showed that all who voted agreed with the worker who did the marking. Mr. Woodruff concludes " that there is practically no longer a secret ballot in Philadelphia." [41]

The Committee of Seventy investigating the election of 1909 found that not less than 38,000 ballots had been marked by some person other than the voter, in violation of the law. The Committee pointed out that votes deposited by persons who allow others to mark their ballots in the voting compartment are in most cases purchased votes. And in the other cases they are the votes of persons who are too indifferent to give the slightest attention to the form of the ballot or how to mark it.[42] The Committee in 1913 presented a petition to the legislature, the substance

[41] Clinton Rogers Woodruff, *Annals of the American Academy,* March 1901, Volume 17, p. 197.
[42] *National Municipal Review,* Volume 5, p. 615, 1916.

of which asked the legislature to require that a voter to receive assistance must be physically unable to cast his ballot. The petition did not result in such legislation.

The Committee of Seventy-Six, appointed by Governor Pinchot to recommend election legislation, urged that assistance to voters, both at the primary and general elections be prohibited except in case of physical inability to see or mark the ballot and that prior to allowing assistance an affidavit should be made by the applicant. The affidavit by the bill was required to be returned to the Prothonotary along with the other election records. This latter provision obviously intended to do away with the absurd requirement that affidavits now made at the primary for assistance must be locked in the ballot box with the ballots when under the difficult method now existing for opening ballot boxes there is only a very rare possibility that the affidavits will be subject to scrutiny.[43]

The maintenance of the present system of furnishing assistance to voters in Pennsylvania in the face of frauds that are perpetrated thereby, and when other systems are operating successfully in neighboring states, is one of the clearest illustrations that can be had of the control of the legislature by those organizations which profit from the system as it exists.

The requirement of an affidavit in securing assistance at the primary and not at the general election presents a striking illustration of the lack of wisdom or lack of sincerity in framing the election law of the state.

There is no reason why assistance should be limited at the primary election and not at the general election. But if assistance is to be limited at one and not at the other it would be much wiser, from the standpoint of fair elections, to place the limit at the general election because supervision by watchers is usually more effective at a primary election. However, there is no reason why the affidavit requirement should not apply to both.

In divisions having one-party election boards the requirement that two of the election officers give assistance would furnish little if any improvement. But the fact that such a situation exists in many divisions in Pennsylvania is no argument against such a

[43] Report of the Committee of Seventy-Six, 1926.

method of giving assistance. Emphasis is only given to the need for correcting one-party situations among the election officers.

Effects of the Voting Machine upon Voting

The effects of the use of the voting machine upon voting need to be considered here.

As far as the problem of determining the right to vote of the applicant is concerned, the use of voting machines would have no effect. The problem would remain the same.

The provisions of law concerned with the use of the ballot, and the problem of devising a system to insure that the voter returns to the ballot box the one which he received, would become irrelevant. The voting machine prevents the "chain" system of voting. It would be no longer possible for the division leader or other party worker to mark the ballots and send them in to the polling place to be deposited by the voter.

The problem of casting more than one vote, as when ballots were concealed inside each other, would be done away with since the voter can vote only once with the machine, without the cooperation of election officials.

The use of the machine would prevent voters voiding their vote as is now frequently done where paper ballots are used. Wigmore, in his book on the Australian Ballot System, points out thirteen incorrect ways of placing marks and forty-four errors in the style of marks.[44] "In one case," says Mr. Zukerman, "27 different methods of marking ballots in controversy were shown, and all were subject to judicial consideration."[45] "The number of spoiled ballots at an American city election," says Munro, "sometimes amounts to three or four per cent of the total."[46]

It can be seen that where ballots may be voided in so many ways, voters with the best intentions unknowingly void their ballots.[47]

The variability in the marks made by voters is so great that a

[44] Wigmore, J. H., Australian Ballot System, p. 191.
[45] The Voting Machine, T. David Zukerman, p. 48.
[46] Government of American Cities, W. B. Munro, p. 192.
[47] The dispute in the Brookhart-Steck contest centered around 1400 ballots on which the voters marked the Rep. party circle but neglected to mark the square in front of Brookhart's name.

law was enacted in Wisconsin, making the following marks valid:[48] ×, S, √, O, —, /, +.

Other states have detailed provisions defining valid and invalid marks. It would be the exceptional voter indeed who knows the law regarding marks, and who knows where the limits of validity leave off and where marks classified as distinguishing marks begin.

The effects of the use of the machine upon the speed of voting needs to be considered. It is generally admitted that a voter can more speedily register his vote by machine than by use of the paper ballot, but argue those opposed to the use of machines, where paper ballots are used the number of booths may be increased so that the voters reach the booths quicker than they would the machine. And most states require a booth for a certain number of voters, in Pennsylvania for every 75 voters of the precinct, and not less than three booths in any precinct.[49] The same number is required in New York.

But, opposes Mr. Zukerman, "it is often overlooked that there is a limit to the number of booths that can be set up in a polling place, particularly such as can be secured in large cities like New York." It is decidedly a problem, he said, in that city to secure satisfactory polling places with sufficient space to permit the setting up of one booth for every seventy-five voters, as is required by law.[50]

A single machine, asserts Mr. Zukerman, can easily handle more voters than a half dozen booths. And when it is observed to just what extent the number of voting districts are decreased where the machine is used, evidence is that the machine greatly speeds up the process of voting. Binghamton, Conn., upon adopting the voting machine, reduced the number of districts from 62 to 41; Seattle, Washington, reduced the number from 500 to 294; Tacoma, Washington, from 131 to 101; Yonkers, N. Y., from 64 to 47.[51] In New York City it is estimated that the number of districts could be reduced from 2,749 to 2,000.[52]

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[48] Laws of Wisconsin, 1899, Chapter 349.
[49] Laws of Pennsylvania, 1920, Section 9795.
[50] The Voting Machine, Political Research Bureau of Republican County Committee of New York, January, 1925, p. 50.
[51] *Ibid.*, p. 59.
[52] *Ibid.*, p. 60.

Despite the increased number of voters per election district where machines are used, "there is no record of a single case," says Mr. Zukerman, "in which voters lost an opportunity to vote for lack of time." In Schenectady, N. Y., where machines are used, more than 70 per cent of the vote is ordinarily cast by noon. In the first election by machine in Buffalo, the voting proceeded at a rate of from 85 to 190 per hour. One machine recorded a total of 1,041 votes, and at a recent election 6 ran well over 750 each. Indianapolis reported 6 machines with an average of 800 votes and 50 with an average of 700. In the 1920 elections in Syracuse, ten districts recorded over 700, and one 835, while Rochester reported a machine registering as high as 842. In Jamestown, N. Y., population changes made necessary an additional machine in each of the 14 districts of the city. Four of such districts reported an average of 1,077 to 1,201 votes.[53]

At the first election at which voting machines were used in the city of Buffalo, November 7, 1899, the number of voters registered in each district varied from 450 to 750. The polls opened at 6 A.M. and closed at 5 P.M. By noon two-thirds of the entire vote registered had been cast in nearly all the districts. The law allowed the voters to remain at the machine one minute but comparatively few took as long as that.[54]

The facts in this respect indicate that voting machines speed up the process of voting very materially.

The problem of giving assistance would still remain, however. The system in Pennsylvania which operates so badly where ballots are used would operate as badly and perhaps worse if voting machines were in use. The complexity of the machines would redound to the benefit of the division leader or other party workers, and if, as at present, in many divisions in Philadelphia and Pittsburgh, the division leader or party workers were allowed to go within the curtains surrounding the machine freely with the voters, they would be fully as successful and probably more so in influencing votes toward their candidates. The opportunities for bribery in this respect would be just as favorable, for it could

[53] The Voting Machine, Political Research Bureau of Republican County Committee of N. Y., January, 1925, p. 50.

[54] *Annals of the American Academy*, A. C. Richardson, Vol. 15, January, 1900, p. 119.

be seen whether votes paid for were voted on the machine. However, the other form of bribery through the use of the "chain" system would be avoided.

On the other hand methods of giving assistance which have operated successfully, as in New York and New Jersey notably, would operate just as successfully where voting machines are used.

The fact that the assistance feature may be abused is no argument against the voting machine. It is an argument for the improvement of the method of giving assistance.

It is obvious that if one-party election boards occupy the polling places and there is no supervision present from the opposing party, the irregularities which now exist at the polling places in voting in many precincts in Pennsylvania could continue with voting machines in use.

Instead of allowing a ballot to be cast for a false registrant or for one who has legally registered but who does not go to vote, the election officers could allow the machine to be operated or operate the machine themselves for such. The use of voting machines does not take away the need for the improvement of election boards, and the improvement of other methods of supervision of the conduct of elections.

In a summary of conclusions with respect to voting machines, Mr. Zukerman states that "they are not perfect. In a district where the entire body of officials connive at dishonesty they are not an absolute guarantee of an honest election. Neither can they prevent certain types of fraud, certainly not the kind that arises from illegal registration; but they can eliminate entirely fraudulent changes made in ballots and errors in counting. They can undoubtedly eradicate the evils and wastes of paper ballots and insure a more honest and efficient election." [55]

The chief effects of the use of voting machines show themselves in the count of the vote as will be seen in the following chapter.

Summary

Supervision of the process of casting the ballots at the polling places in Pennsylvania is dependent upon a bipartisan election board, and upon watchers appointed by the parties. It is known

[55] The Voting Machine, T. David Zukerman, p. 78.

that supervision is deficient or non-existent at many polling places because the election boards are not in fact divided politically and because the minority party does not have watchers to safeguard its interests.

Some of the safeguards found indispensable in other states are lacking from the system in Pennsylvania. The requirement that the voter sign his name upon receiving a ballot, the record of the ballot, assistance given by election officers of opposite parties after the voter has made affidavit and given proof that he is physically unable to mark the ballot, having been adopted generally among the states of dense population in seeking improvements in their election system.

The voting machine offers some distinct advantages in casting the votes. Some fraudulent practices such as casting more than one ballot, or voting in the "chain" system manner, become obsolete; the machines are practically fool-proof and prevent voters voiding their votes; the speed of voting is materially increased, thus allowing economies by combining election districts.

On the other hand undue assistance may continue where machines are used. The machines increase the opportunities for giving such assistance. The use of machines does not take away, but increases, the need for care in giving the necessary assistance.

Furthermore, machines are not proof against illegal operation where supervision does not exist. Fraudulent votes in such cases may be registered by machine as where ballots are used. But because machines allow a reduction in the number of election officers and therefore permit greater care to be used in their selection, increased supervision is admitted.

CHAPTER IV

Returns

No discussion is necessary to show the importance of correct returns of the votes cast. It is obvious that the good results accomplished in the other phases of the election process can be overcome by false returns. The remark of Boss Tweed that "he cared not who cast the ballots so long as he was allowed to count the votes" illustrates the importance of this last step in the process.

Because it is the last step in the process, it is therefore the last opportunity to make the vote what is desired, and if such has not been accomplished through the regular voting, false registrations, or irregularities in casting the ballots, there exists the temptation to tamper with the returns. The temptation to fraud on the part of candidates and their political supporters is never so great as when it is known precisely how many votes are needed to change the result.

Furthermore, it can be seen that it is a less expensive process to employ the officers who make the count of the vote to make the desired adjustment than to secure the desired results by means of buying votes, and for that reason again returns are subject to attack.[1]

The purposes in this chapter are to set forth the location of responsibility for counting the vote, and the responsibility for examining the returns to determine their accuracy, and to set forth statistically, wherever possible, the practical results secured from the systems described.

Method of Counting the Vote in Pennsylvania

In Pennsylvania the count of the vote is made by the election officers of the precinct upon the closing of the polls. The law

[1] The expensiveness of buying votes was clearly seen in the primary election of 1926 in Pennsylvania, when watchers, so-called, were paid $10.00 for the purpose of securing their votes. See p. 125.

prescribes that only the election officers shall remain within the guard rail in the voting room while they make the count of the vote. Outside the guard rail overseers and watchers may remain.[2]

Also the law imposes upon police officers, constables, and deputy constables, required to be present at the polls, the duty to be present outside the guard rail, while the votes are being counted, to preserve order.[3]

It is provided that when the ballot box is opened by the inspectors the ballots shall be counted audibly, one by one, and the whole number announced. Then the counting of the vote for each candidate is commenced. The judge is required to read aloud the name or names marked on each ballot together with the party name under which each vote was cast, and the clerks enter each vote as read in tally-papers.

The ballots, after being removed from the box, are required by law to be kept within plain view of those present in the voting room, so that they may be able to see all of the marks on the ballot, but out of their reach until they are replaced in the ballot box.[4] The total vote, as soon as counted, is required to be publicly announced. The returns are made out in triplicate. The ballot boxes are delivered by the judges of election to a justice of the peace's office, in Philadelphia to the Mayor and Recorder, where they are stored in a room provided by the County Commissioners, and to be guarded against inspection except as provided by law.

The methods of supervision of those entrusted with counting the vote can then be seen. The provision requiring the ballots to be counted audibly upon the opening of the ballot box assumes that party members of the election board, the watchers and overseers, if any, and the people present in the voting room, if any, will thus have a means by which they can see that no ballots are added nor any taken away, nor any alterations made before the count begins. Also it presents a means by which the number of ballots can be compared with the number of names checked as having voted.

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[2] Pennsylvania statutes, 1920, Section 9903.
[3] *Ibid.*, Section 9901.
[4] Pennsylvania Statutes, 1920, Section 9899.

The judge is required to read aloud the name or names marked on each ballot so that the presence of party members on the election board, the overseers and watchers, if any, and people in the room, will insure that an accurate tally is kept by the clerk, and the provision requiring the ballots to be kept within plain view of those present in the voting room so that they may be able to see all of the marks on the ballot, but out of their reach, is intended to insure the correct reading of the marks on the ballot by the judge.

The operation of the process of counting the votes assumes that the election officers are divided politically, and that watchers and overseers of each party shall be present.

At least the assumption is that one of the above situations will operate to insure the accuracy of the count of the vote.

We have seen above that the provision of law setting forth the division of the election officers politically has not operated to secure such results.[5]

The extent to which watchers of each party are appointed also has been stated.[6] In many districts there is no supervision from watchers of the minority party. Even where watchers of both parties are present the effectiveness of their supervision cannot be taken without question. It was seen that in cases the watchers are not in position to observe whether ballots are being read correctly or whether correct returns are being made.[7]

It was seen that the Court of Common Pleas rarely exercises its privilege to appoint overseers of elections.[8] In many districts in Pennsylvania practically a one-party situation exists,[9] and in such it is too much to expect that petitions for overseers will be forthcoming.

It is to be noted here as well as in casting ballots that the supervision falls down in the very divisions where the need for supervision is greatest.

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[5] *Supra*, pp. 62–63.
[6] *Supra*, p. 76.
[7] *Supra*, p. 76.
[8] *Supra*, p. 59.
[9] *Supra*, p. 59.

Methods of Counting the Vote in Other States

The method of counting the votes by which the regular election officers of the precinct make the count is generally used among the states. Exceptions exist in a few states. In Michigan the law permits the township board of any township or the legislative body of any city or village to provide an additional board of three inspectors of elections for any precinct to count the ballots and make returns thereof.[10]

In several states double election boards are used so that the count of the vote may be made as the balloting proceeds.[11]

Double election boards have been provided in those states to meet the problem of the difficulty of counting the ballots which, where one board is used, keeps the members many hours after the polls close to perform the tedious task. Such a system has the effect of making more complicated some of the problems already discussed, notably appointment of qualified precinct officers.

Another exception is in practice in Rhode Island where in the cities of Providence, Pawtucket, Central Falls, and Newport the Board of Canvassers and Registration of the city counts the ballots after the count has been made by the precinct officers, and the count of the Board of Canvassers and Registration is the one accepted.[12] The Board of Canvassers and Registration is a board of three members, one member elected by the City Council, the other two by the voters of the city.[13] According to the statement of the clerk of the Board, the count of the ballots by the precinct officers "is very often inaccurate, sometimes hundreds of votes in error." Of the precinct officers' count for Mayor in the city of Providence, in the 64 precincts only 4 agreed with the count by the Board of Canvassers and Registration and in 38 precincts the counts differed more than five votes.[14]

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[10] Election Laws of Michigan, 1926, p. 109.

[11] Colorado, Idaho, Iowa, Kansas, Missouri, Nebraska, Oklahoma, Oregon, Texas, Utah and West Virginia.

[12] Election Laws of Rhode Island, 1924, p. 46.

[13] *Ibid.*, p. 17.

[14] Letter from the clerk of the Board of Canvassers of Providence, R. I., to the author.

The count by the Board of Canvassers and Registration is declared by the clerk of the Board to be "by far the most satisfactory process" because the work is done in the daytime, a counting machine is used, and watchers of both parties are present to witness the count.

The system of counting the votes by a central authority has not been attempted sufficiently to test whether the system would be an improvement over the system in states generally under which the precinct officers make the count. The inconvenience and immensity of the undertaking to central authorities in making the count have been the decisive factors in leaving the duty with the precinct officers.

The use of voting machines would obviously make a central count more convenient; and on the other hand the use of the machine as will be seen, decreases the need for a central canvass.

Among the states generally the methods for securing a fair count of the votes place reliance upon the bipartisan election boards, upon party watchers, and individual voters of the precinct. Some states are more specific than others in bringing into use the check of bipartisanship. In New Jersey the law requires that two officers of different parties read the ballot and that two clerks of different parties record the votes.[15] In New York State the law requires that the votes shall be tallied by officers of different political parties.

The systems of the states are similar in requiring that the count shall begin by counting the names checked in the poll book, then counting the ballots to see if the two agree, usually providing for elimination of excess ballots by lot, and then allowing the reading of the ballots to begin.

The system provided for the count of the votes at the polling places in Pennsylvania is much like that in other states. It has been seen to what extent the supervision intended by law is lacking in cities of the state. If similar conditions, that is, one-party boards, absence of watchers, and one-party precincts prevail in canvass the returns than is the case in Pennsylvania. And that phase needs to be considered.

[15] Election Laws of N. Y., 1925, p. 126.

other states, results similar to those in Pennsylvania cities are to be expected unless greater supervision exists by those who

The law in Pennsylvania provides that the returns shall be made out in triplicate by the election officers, enclosed and sealed in envelopes in the presence of the election officers, one copy each being returned by the judge and the minority inspector, and the other delivered to the prothonotary of the Court of Common Pleas and there preserved by the prothonotary for public inspection. After a primary election one copy is sent to the County Commissioners instead of the Court of Common Pleas.[16]

Canvass of the Returns in Pennsylvania

In Philadelphia the law requires that the judges of the election divisions shall meet in their respective wards by 10 o'clock of the day following the election at a place designated by the Board of Aldermen, and make out duplicate returns of the election held in their respective wards. One copy of the returns is delivered to the prothonotary of the Court of Common Pleas, and the other is delivered to the return judges of the city.[17]

In Pennsylvania in counties where there are three or more judges of the Court of Common Pleas, two judges compose the board to compute and certify returns of municipal and general elections. In primary elections the County Commissioners receive the returns and compute the vote. In case there is no resident president judge in the county the associate judges perform the duty. No judge may sit on such a board if he be a candidate for any office.

The judges composing the return board open the returns presented by the prothonotary and have the authority to compute the vote and issue certificates of election. The meetings of the board are required to be open to the public. The judges appoint whatever assistants are needed.

In case the returns of any district are missing, or upon the charge of fraud or mistake by a qualified voter under oath, the court may issue summary process against the election officers of the election district and bring them into court. Returns found fraudulent or possessing mistakes may be corrected.

[16] Pennsylvania Statutes, 1920, Section 9905.
[17] *Ibid.*, Section 9910.

Furthermore, upon the sworn affidavits of three electors of the district charging specific fraud or error, the Court may open ballot boxes and recount the vote prior to the completion of the computation. Any corrections found necessary may be made.

In practice the Court in exercising its authority to compute the vote interprets the word "compute," as do the County Commissioners, to give the power to tabulate the returns as shown on the face of the division return sheets.[18]

The Court waits for complaints from the voters before going back of the returns by way of bringing election officers before the court or by opening ballot boxes. The responsibility for an investigation back of the returns is deemed, therefore, to rest with the voters.

The reliance which can be placed upon the voters in this respect is doubtful. In two counties each containing a third-class city, not a request was filed after the November election of 1926 to investigate the activities of the election officers or open ballot boxes. No formal petitions were made by voters in Philadelphia after the November 1926 election for the opening of ballot boxes. However, there were four boxes opened by the board of judges the Canvassing Board) on oral requests to the court based on palpable fraud or error in the returns. In one of the four cases in which the boxes were opened the election board of one of the divisions was held for court on the charge of making a false return. In Philadelphia it is not definitely known how many election officers were called to explain irregularities. It is known that in only one division were the election officers held for court on the charge of making a false return. And also it is known that only four ballot boxes were opened by the Canvassing Board, from which facts it can be deduced that the number of election officers called in was small. Since the election 25 election officers have been held for court on criminal charges of irregularities, which number of course does not include officers summoned by the Canvassing Board to explain apparent irregularities and not arrested. None have yet been convicted.

There were in all 38 complaints of irregularities made to the

[18] Commonwealth vs. Emminger, 74 Pa. St. 479; Lawrence vs. Knight, 4 Phila. 355.

Court, all of which were made by the Committee of Seventy. The initiative was supplied by this independent body which examined the election returns, noted where fraud appeared, made the necessary investigations, and presented the cases to the Court.

It is reasonable to state that without the existence of an independent body interested in fair elections there would have been no complaints made to the Court. Considering the extent of irregularities the number, as it was, was small. Because there are many districts which are solidly one-party districts [19] there are no members of the other party to make complaints, and in that great number of districts containing only a few of the minority party [20] very often fear prevents complaints being made.

And then where a one-party situation exists among the officers at so many polling places [21] individual voters of the party which has no representation at the polling place, or persons interested in having fair elections, have no way of discovering many of the irregularities which can be practiced.

Furthermore, in order to secure the opening of ballot boxes the complaints must allege specific fraud or error, and the judge then has the power of deciding whether or not the evidence is sufficient to warrant opening the boxes.

When the one-party situation exists at the polling place it is extremely difficult for individual voters to come into possession of information upon which charges of specific fraud or error can be based. And further if the judge's maintenance in office depends upon the members of the party whom he is asked to prosecute the evidence may be deemed insufficient. Especially would such be likely where the voters acted alone. With an organized independent body, or a strong opposite party, promoting their charges, the judge would most likely give more attention to the complaints. The conclusion here is that individual voters cannot be relied upon through furnishing complaints to the Court to cause a proper scrutiny of the returns.

In primary elections the counting of the vote at the polling places is done by the election officers in the same manner as de-

[19] *Supra*, p. 59.
[20] *Supra*, p. 59.
[21] *Supra*, pp. 62–63.

scribed above. The supervision of the election officers while going through the process of counting the vote is practically the same as that for the general election described above. For receiving and computing the vote the method differs.

The County Commissioners have the authority to receive and compute the vote. The process of computing the returns is fixed in detail by law. The returns made by the election officers are read, one after the other, audibly by one of the clerks, including the number of ballots of each party issued, spoiled, and cancelled, and cast respectively. Should a discrepancy occur, the counting is postponed until the discrepancy is solved. When a discrepancy arises the return sheet is compared with the tally papers, and if the return sheet and tally papers agree the discrepancy is considered corrected, provided that in every such case the Commissioners performing the computation shall require the ballot box of the district to be brought in to be opened and a recount made. The recount is required to be made in the presence of representatives of each party and candidate interested. Two representatives are permitted for each. The time and place of the computation is required to be published by the Commissioners a week previous to the opening session.

In case the opening of the ballot box and recounting the vote is not sufficient to correct the discrepancy the Commissioners may call in the election officers, and overseers of the district, if any, with all election papers in their possession. The Court of Common Pleas may be called upon to enforce such a summons if necessary.

And if any error or fraud is discovered the Commissioners are required to correct the vote and report the cases which warrant action to the district attorney.

Any appeal from a decision in regard to computing the vote may be made to the Court of Common Pleas. Such an appeal may be made by an individual upon petition. The Court has the power to order the returns to be revised and certified accordingly.[22] However, in computing the vote, as was seen, the County Commissioners, as with the judges when acting as the return board, cannot go back of the returns where discrepancies do not appear

[22] Pennsylvania Statutes, 1920, Section 1697.

on the face of the returns.[23] Their power in computing the vote is the same as that of the judges when acting as the Canvassing Board.

A method is provided here too as in the case of municipal or general elections, whereby the County Commissioners composing the return board are authorized to open the ballot box of a district upon sworn affidavit of three electors of the district, alleging, upon information which they consider reliable, an act of fraud or error. Any errors found are corrected by the return board. All complaints must be made before the finish of the canvassing of the returns.[24]

In Pennsylvania then the power to canvass the returns for the primary and general elections is possessed by two bodies which have but slight control over the officers who conduct the elections and count the vote at the polling places. And as a consequence little effective supervision results.

Methods of Canvassing Returns in Other States

The system in Pennsylvania differs from that in other densely populated states. In New Jersey the County Board of Elections acts as a Board of Canvassers for the County, in Missouri the County Board of Election Commissioners canvasses the returns, in Ohio the County Board of Deputy State Supervisors acts as the Canvassing Board. In New York City the Board of Elections acts as the Canvassing Board. In Illinois in cities which have adopted the act permitting the county court to appoint a Board of Election Commissioners for the city, the Board of Election Commissioners with the County Judge and City Attorney compose the canvassing board.[25] In all these it is to be noted that the canvassing board is the same board which appoints and exercises supervision over the election officers of the precinct.

It was seen that in Pennsylvania the Canvassing Boards have no authority to go back of the returns unless a discrepancy appears on the face of the returns or unless specific fraud or irregularity is declared by the voter.

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[23] *Supra*, p. 116.
[24] Pennsylvania Statutes, 1920, Section 9700.
[25] Election Laws of Illinois, Article V, Section 1.

The power is similar to that in other states. The Boards performing the canvass make abstracts of the votes as they appear upon the face of the returns unless discrepancy appears or complaint is registered. General allegations of fraud and illegality are not considered sufficient to refuse recording the abstract of the votes. In Ohio, the rule was set forth in a case in which an action was brought to enjoin the clerk of the Court of Common Pleas of Wood County from recording the abstract of the vote upon allegations of fraud and illegality in conducting the elections. The Court held that wrongs of such a nature can be inquired into and redressed only by means of a contest of the election.[26] The rule is similar in other states.

But although the canvassing boards in the states have equal authority with respect to returns an advantage in the way of supervision lies with those boards which have the combined functions of appointing and removing the precinct election officers.

From the returns much could be learned by the board which would aid in making appointments and furnishing information as the basis of removals. Returns the nature of which created suspicion that the true situation in the precinct was not reflected therein, while not sufficient to warrant correction by the Board, could be used as a basis to support removal of those precinct officers and to lead to investigation.

The Board in such cases which is held responsible for securing fair elections in the precinct would have the returns before it as part of the records showing whether or not the elections were fair. Information which could be obtained from the returns to help further their purpose would be at hand.

It can be seen that if the Canvassing Board was in fact a one-party board, such as the Board of County Commissioners in Philadelphia and Allegheny Counties, discrepancies could be overlooked, and complaints of voters would receive half-hearted, or less, attention. Especially would such be the case where the Board was part of the dominant political machine and was interested in helping to conceal the activities of the machine-controlled election boards.

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[26] Peck vs. Weddell, 17 O.S. 271.

The method by which ballot boxes may be opened has a direct bearing upon the activities of the election officers at the polling places. An examination of the ballots upon opening the ballot box would reveal certain irregularities if they had been practiced by the election officers.

By a close examination something might be seen as to whether the markings on ballots were in the same handwriting, and perhaps something would be revealed by the manner in which the ballots were folded. But most important an examination would show whether the ballots had been read properly and the votes properly tallied and returns properly made.

However, there are outstanding irregular practices which the opening of the ballot boxes will not reveal. Unless the markings on, or the folding of, the ballots reveal, the practice of voting false registrants or casting ballots for the "stay-at-homes," or the use of the "chain" system of voting will not be revealed when the ballot box is opened. The opening of the ballot box, as was stated, has to do chiefly with discerning the correctness of the count of the returns.

Methods of Opening Ballot Boxes in Pennsylvania

In Pennsylvania the canvassing Boards may order the election officers of the precinct to open their ballot box and recount the votes in cases where discrepancies appear on the face of the returns during the canvass, or upon the sworn affidavits of three electors of the precinct alleging fraud or error. All such complaints must be registered before the finish of the canvassing of returns.[27]

Furthermore, any person aggrieved by any order or decision of a return board, other than one composed of judges of the Court of Common Pleas, may appeal to the Court of Common Pleas. Such appeal must be made within two days after the decision of the Board is made. Upon such an appeal the Court as part of its inquiry into the case may open ballot boxes.

And further, the ballot boxes may be opened where a contest is brought. The trial and determination of contested elections

[27] Pennsylvania Statutes, 1920, Section 9700.

are by the courts.[28] Petition for contesting an election must be filed within thirty days after the election.

The law requires a varying number of signatures to the petition for a contest, from 100 qualified voters in the first class to 25 in the fourth class. For all contests the law requires a bond signed by at least five of the petitioners, and by at least two sureties.

The law requires further that the "petition must be stated with clearness and precision, and the petitioners held to the exercise of due diligence to ascertain and specify the facts which, if sustained by proof, would require the court to set aside the result of the election. In the case of Warren Borough Election[29] it was stated "that a petition for a contest will be dismissed where it is based on a mere belief, not on ability or expectation to prove, does not charge fraud, and makes no attempt to state definitely the number of ballots involved as improperly marked."

And lastly the ballot boxes in Pennsylvania may be opened by the criminal court where the contents are to be used as evidence.

It can be seen that the chief reliance for opening ballot boxes in Pennsylvania is placed upon the voters of the precinct. In contests the responsibility is placed upon the voters or upon the party.

Judging by statistics for the 1926 election[30] few ballot boxes are opened. The number of petitions received for the opening of ballot boxes was negligible, and the results for the 1926 election reflect the general practice for other elections.

The small number of petitions received by the Court is not surprising. There are many districts,[31] and the ones in which there is greatest need for opening the boxes, where there are not three of the minority party to make petition, and a much greater number in which there are not three who will make petition. It is difficult to secure the accurate information which is required in making petition and to many fear is the deterrent should they have sufficient information on which to petition. The situation

[28] Constitution, Article 8, Section 17.
[29] Warren Boro. Election, 274 Pa. 352.
[30] *Supra*, p. 116.
[31] *Supra*, p. 59.

in Philadelphia and Delaware Counties shows that no effective supervision comes from a system which places the responsibility for opening ballot boxes upon the voters.

The method of contest again rests upon the initiative of the voters or the party. It is difficult, expensive and uncertain. Unless strong organized effort promotes the action the method is inoperative.

As for the opening of ballot boxes to secure evidence by the criminal court, the method again requires a strong organized body with financial resources to prosecute the cases. Since the November 1926 election all of the cases in which ballot boxes have been opened have been prosecuted by the Committee of Seventy. Because no cases have been prosecuted in Allegheny or Delaware counties where no independent organizations exist, it is safe to assume that no ballot boxes would have been opened in Philadelphia had the Committee of Seventy not been in existence.

An easy and inexpensive method of recount is declared in the "Model Election System" to be a means of bringing to light any election irregularities and tends to induce care and caution on the part of election officers. The recommendation is made that any candidate who believes himself aggrieved on account of fraud or mistake should be allowed to apply for a recount to the Election Commissioner on depositing $10.00 for each district, but not over $100.00 in case of candidates for county or municipal offices, or $250.00 in case of candidates for state offices or United States Senator or Representative. If the recount goes in favor of the contestant the recommendation is made that his money be refunded. Recommendation is made further that an appeal to the court from the election commissioner's decision should be provided.[32]

Methods of Recount in Other States

The system of recount recommended above has substantially been adopted in Wisconsin. The Wisconsin plan for recount is yet easier and less expensive to the contestant than that recommended in the Model Election System.

In Wisconsin when any candidate or any elector who voted

[32] Model Election System, *National Municipal Review*, December, 1921, p. 611.

upon a Constitutional amendment, or any proposition, presents a petition setting forth that he is informed or believes that a mistake or fraud has been committed in specified precincts in the counting or return of the votes, or specifying any other defect, irregularity or illegality in the conduct of the election, the Board of Canvassers proceeds to determine the facts alleged in the petition and recounts the ballots in every precinct specified. A fee of two dollars for each precinct in which ballots are recounted must be paid by the contestant. The petitioner and all opposing candidates or persons interested therein are entitled to be present at the recount. Appeal to the circuit court of the county from the Canvassing Board's decision is allowed.[33]

Because of certain obscurities in the law the Wisconsin system is reported to be not entirely satisfactory by the Chief of the Legislative Reference Bureau. One of the defects of the law cited is the requirement that a petition for a recount be filed on the very day on which the Board of Canvassers makes its determination. In a case which arose in 1926 the Circuit Court held that such a provision was unreasonable and allowed a defeated candidate a recount, although a petition had not been filed until six days after the last day of the meeting of the canvassers.

Also the law is very indefinite with regard to opening up the count in additional precincts besides those enumerated in the original petition. After such proceedings are started and a partial recount had, the opposing candidate has five days in which to ask for a recount in additional precincts; and after that is completed, the other candidate can do the same.

A still more serious defect lies in the provision of law[34] providing that the State Board of Canvassers may not accept any supplemental or corrected return from a county board. In the case of a contest over a senatorial nomination in Wisconsin last year, the two candidates became involved in a legal struggle, which had to be settled by the Supreme Court. But the Attorney General held that under Section 6.73[35] the State Board of Canvassers could not take the corrected returns into account anyhow.

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[33] Election Laws of Wisconsin, 1925, Section 6.66.
[34] Wisconsin Statutes, 6.73.
[35] Election Laws of Wisconsin, 1925.

The Legislative Reference Bureau concludes, "that while the recount statute undoubtedly needs amendment there can be no doubt that there is necessity for some provision of that kind." Recounts in Wisconsin, says the Bureau, are generally resorted to whenever there is a close election, and while such recounts have seldom given a different result than the original count, different results are by no means unknown.

In Michigan a similar system, although somewhat more expensive, is in effect. A fee of $10.00 per precinct, with a maximum of $100.00, is required.[36]

In Missouri in primary elections a method without expense to the contestant is provided. Any candidate may present an affidavit alleging fraud, misconduct, or irregularities in the count of the ballots or returns thereof, and secure the opening of the ballot boxes and a recount in the precincts specified. To make the recount the Canvassing Board appoints four disinterested electors of the county or city from the two dominant political parties to assist in the recount. No appeal from the decision to the Court is provided. The Canvassing Board is required to present any evidence discovered in the recount of fraud or acts committed in violation of the criminal laws to the prosecuting authorities.[37] From the evidence at hand there does not seem to be an abuse of the inexpensive system.

It is to be noted that in all these methods the initiative for securing a recount rests with the voters or the candidates.

Attempts to Secure Less Difficult Methods of Opening Boxes in Pennsylvania

Changes for making the opening of ballot boxes in Pennsylvania easier have been recommended. The Committee of Seventy-Six recommended to the legislative body in the special session of 1926 that "the law be so changed as to require the courts to open the ballot box of any precinct upon the petition of five electors of the county in which such precinct is located averring that fraud or error occurred in the computation of the vote." It should be made absolutely clear in the law, the recommendation

[36] Election Laws of Michigan, 1926, p. 119–20.
[37] Election Laws of Missouri, 1924, p. 100.

goes, that the presentation to the court of evidence of fraud or error should not be required. And the right to have ballot boxes opened for the detection of fraud or error should exist not only prior to the completion of the canvass of the vote but for a period of six months thereafter.

To discourage the abuse of the right to have ballot boxes opened it was recommended that the law provide that petitioners pay $25.00 for each ballot box opened in which fraud was not found.

The changes recommended would increase the number of petitioners from three to five, and remove the precinct residence requirement for the petitioners. Also the recommendations proposed to do away with the present system under which specific fraud has to be alleged, and to lengthen the period in which complaints could be registered.

The responsibility for securing the opening of the boxes rests as does the present method upon the initiative of the voters. In practice it would rest upon the candidate or the party which would be instrumental in inducing five voters to petition. It is not reasonable to expect that five voters upon their own initiative are going to deposit $25.00 for a recount with the possibility that the bond will be forfeited. Certainly upon their own initiative five voters would not petition the court to open a ballot box unless specific information was possessed. The recommendation would permit the candidate or the party to take the initiative and some results from that source could be expected. The recommendations in this respect went the way of the other election bills.

The committee considered the proposal that the law be so changed as to require a fixed percentage of ballot boxes to be opened and checked without the presentation of petitions for having them opened. The committee stated that the proposal had much to commend it, but that a majority of the committee believed that if the other recommendations for opening the ballot boxes were adopted no further requirement for opening ballot boxes would be necessary.

A system whereby the Canvassing Board is required to open a fixed percentage of the boxes of each ward, especially in large cities, has several commendable features and has a direct relation to the supervision of the precinct election officers.

In the first place the responsibility for opening the ballot boxes is shifted from the voters or the party to the Canvassing authorities. It has been seen that the initiative of the voters and the party, especially in one-party districts, cannot be relied upon. Petitions for opening the boxes fail to come from the precincts in which the need of opening the boxes is greatest. Where in precincts one-party election boards exist, no watchers of the minority party are appointed, and few, in some cases not any, voters of the minority party reside, there is no means by which information can be secured upon which to base even a belief that fraud was committed.

By a provision requiring a fixed number of boxes to be opened, selected by lot, in the ward supervision could be exercised over the election officers.

It could be seen by the Canvassing Board whether the election officers who made the count of the ballots properly read the markings on the ballots, and properly made out the returns, whether intentional or unintentional. To a Canvassing Board which at the same time is the Board which appoints the election officers the information obtained by opening a certain percentage of the boxes would be valuable in indicating whether or not the Board was securing an efficient type of election officers.

Furthermore, the indefiniteness as to which boxes were to be opened would serve as a stimulus to all election officers to perform their functions more accurately and would act as a deterrent to those who would miscount the votes or falsify the returns.

The arguments against such a requirement urge that too much time would be required and that the system would be expensive.

The first argument presents an administrative problem which could be solved. The time required would depend upon the number of assistants employed and there need be no limit on the number of assistants except the number the board can efficiently supervise.

The employment of assistants would require an outlay but no great sum. A judge of the Court of Common Pleas in Philadelphia stated that the process would cost little and do a great deal of good.[38] In the administration of other laws, such as

[38] Judge Edwin O. Lewis, Court of Common Pleas, of Philadelphia.

public service laws, factory laws, etc., greater outlays have had to be made upon every increase of regulation. It cannot be expected that election regulation is an exception to the rule. The expense argument cannot be seriously urged. The starting point is to decide whether the process is necessary to insure fair elections. If necessary, then it is unwise and hardly fair to ask the voters or the party to undertake an expense which is too great to be borne by public funds.

A bill was introduced by the administration in the Senate during the 1927 session of the Legislature providing for the opening of ballot boxes upon the petition of three qualified electors of any city, borough, or township, stating that upon information which they consider reliable they believe that an act of fraud or error, although not manifest on the general return of votes, was committed in the computation of the votes cast or in marking the ballots. The Court of Common Pleas upon such petition is required to open the ballot box of the election district concerned and cause the entire vote to be correctly counted.

The bill provided further that every petition for the opening of a ballot box should be accompanied by $50.00 in cash or $200.00 bond. If upon the opening of the box no fraud or error is found $50.00 and costs of the suit are paid to the County Treasurer. If fraud or error is found the $50.00 is returned to the petitioners or the bond cancelled.

It was provided that ballot boxes could be opened under the provisions of the act within four months after the election. However, ballot boxes were required to be opened before the completion of the computation and canvassing of the returns of the county in order to affect such returns.[39]

The bill was amended requiring petitioners in the cities to live within the ward containing the election district to which the petition applied, requiring the petitioners to be reliably informed, and to believe that fraud was committed.

There is no conceivable reason from the standpoint of fair elections why the bill should have been amended in that fashion. The $50.00 deposit is more than ample guarantee that the privilege of securing the opening of boxes will not be abused. In practice

[39] Senate Bill No. 543, 1927.

the provision requiring the $50.00 to be forfeited if no fraud is discovered would operate to cause petitioners to have specific information of fraud. In no event would individuals take the initiative, present petitions, and risk $50.00 on the outcome. Petitioners would have to be prompted by the parties or independent organizations.

The amendment of the bill can only be explained as an attempt to make the detection of fraud more difficult. It shows clearly the attitude of the Elections Committee of the Senate toward election improvement.

Effects of the Voting Machine upon Returns

As was stated in the preceding chapter, the use of the voting machine has its greatest effect upon the count of the vote and returns. Where machines are used much of what has been written in this Chapter, regarding the methods of reading ballots, making returns, and opening ballot boxes, does not apply. It is now necessary to examine the effects of the voting machine in relation to the subject of this Chapter.

The use of the voting machine obviously does away with ballots and ballot boxes, except for absentee voters. As the first step in the counting process, instead of comparing the number of ballots with the number of names checked on the registry list, or the number of signatures where the signature requirement prevails, the number on the counter of the voting machine, showing the total number of times the machine was operated, can be compared with the number of names checked as having voted or the number of signatures made premilinary to admission to the machine.

Some advantages appear here. In the first place it is much less trouble to read the number on the counter than to open the ballot box and count the ballots, and the saving in time is obvious. Furthermore, there is less watchfulness required on the part of election officers or watchers where numbers on the machine are read than to see that no ballots are taken out or none added upon the opening of the ballot box where ballots are used, and to see that the number of ballots is accurately arrived at. In most states the law requires that if the number of ballots in the

box exceeds the number of names checked as having voted the excess number should be drawn out by lot. With the voting machine no such requirement would be necessary. There would be an agreement between the number checked or the number of signatures and the number showing the number of times the machine was operated.

The next step in the process is, as was seen, the reading of the markings on the ballot. Where the voting machine is used the problem of reading the markings on the ballot would be changed to reading the numbers on the counters showing the total number of votes for each candidate or question voted upon.

In states which have provided for the use of voting machines, the law in most cases requires scrutiny of the numbers by officers of each party in reading the results. The New York system may be taken as representative. The Chairman of the Board of Inspectors under the scrutiny of an inspector of a different political party reads the results shown by the counter numbers. The vote as read is entered on the statements of canvass in ink by two inspectors of opposite political faith, after which the figures are verified by being called off in the same manner from the counters of the machine by an inspector of opposite political faith from the chairman. A public proclamation of the results is then made. Any candidate or watcher may thereafter examine the numbers on the counters to see that they were properly read.

There are distinct advantages in this respect brought by the use of the machine. One distinct advantage lies in the simplicity and saving of time in discerning the vote where the machine is used. The vote is known within a few minutes after the polls close and the long tedious process of reading two, three, or four hundred ballots is avoided. Where the ballot is used election officers often are detained at the polling places until nearly midnight, sometimes longer. In some states, it was noted, a second group of officers are employed to make the count. Much inaccuracy can doubtless be attributed to the tediousness of the long drawn-out process and the feeling by the election officers that they are poorly paid for their time at the polls. In Buffalo, the average time in arriving at the result of an election is approximately one hour. Within that time returns are received, tab-

ulated, and published in the extra edition of the evening newspapers. The workers' tasks are so lightened and their hours shortened that a reduction in the pay of the inspectors from $15.00 to $10.00 for election day has been made, besides eliminating the two clerks required where paper ballots are used.[40] In New York City the compensation for officers where machines are used is $11.00 as compared with $15.00 where ballots are used, and also the two clerks are eliminated.[41]

In Munro County, New York, with a population of 350,000 the vote was counted and returns were made in the same average time as in Buffalo. In Binghamton, Conn., 45 minutes were required. The average time where machines are used lies between a half hour and an hour and a half.[42]

It is known that where ballots are used considerable difficulty is experienced in interpreting the markings on the ballot. Although the laws of the states describe in detail how the ballots shall be marked by the voter,[43] in many cases do the election officers have to use their judgment in making the decision as for whom the vote is cast or whether it should be counted. It was seen in the preceding chapter [44] that Wigmore, in his book on the Australian Ballot [45] points out 13 incorrect ways of placing marks on the ballot and 44 errors in the style of marks. Mr. Zukerman in his study of the voting machine cites a case in which there were 27 different methods of marking ballots in controversy and all were subject to judicial consideration.[46] The difficulty in interpreting the validity of markings is well shown by the decision of the Court of Appeals of New York which held the following markings to be valid: [47]

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[40] T. David Zukerman, Case for Mechanical Balloting, *National Municipal Review*, April, 1925.
[41] Report of Board of Elections of New York, 1926, p. 10.
[42] The Voting Machine, Political Research Bureau, N. Y., p. 51.
[43] Laws of Pennsylvania, 1920, Section 9861.
[44] *Supra*, p. 105.
[45] Wigmore, J. H., Australian Ballot System, p. 191.
[46] T. David Zukerman, The Voting Machine, Political Research Bureau, New York.
[47] Fallon, App., 197 N. Y. 336 (Jan. 25, 1910), cited by R. C. Brooks in Political Parties and Electoral Problems, p. 394.

and the following were declared invalid:

Given full credit for honesty and a desire to make a fair count of the votes, the election officers are confronted with difficult cases in which their decision may or may not express the wish of the voter. To the election board which is not interested in a fair count of the votes and which wishes to increase the vote for a particular party or candidate the existence of that difficulty in reading ballots affords an excellent opportunity to interpret ballots on which the markings are at all doubtful in favor of the party or candidate of their choice, and still be acting within their authority. Especially is such an opportunity afforded when the decision of the court, as in the case of the election board of the 44th division of the 46th ward in Philadelphia,[48] is to the effect that false returns are not sufficient for conviction. It must be proven, said Judge Barnett, that the officers knowingly made the mistakes. Carelessness or gross negligence he said are not sufficient to convict of fraud. And such, that the election officers acting as they do in a quasi-judicial capacity are not personally liable for mistakes and errors of judgment if they acted in good faith,[49] is the prevailing rule.

It is obvious what a difficult undertaking it is to prove that election officers knowingly misread the ballots. When it is considered that in a great many divisions one-party election boards exist, and that a very difficult method of opening ballot boxes is provided, it is evident that there is no supervision, except the rare chance that the box will be opened, to prevent misreading ballots,

[48] May 27, 1926.

[49] Thomas vs. Smith, 9 Pa. Dist. 469; Moran vs. Rennard, 3 Brewst. 601; Ruling Case Law, Vol. 9.

doubtful or undoubtful. Plenty of evidence is at hand to show that ballots are misread, some cases so clear that convictions have been secured.

Furthermore, an election board wishing to increase the vote for a particular party or candidate may change the markings on the ballot in such a way as to give the vote to the desired candidate or to make the vote for the opponent void.

Such tampering with the ballots has become so prominent that laws now stand on the statute books in many states stating that the election officer reading the ballot shall not have a pencil in his hands while reading the ballot,[50] or shall not have a pencil the color of the one used by the voters.

Tampering with the votes is common in elections in large cities. In a recount of the votes in Chicago for the election of November 5, 1912, it was discovered that thousands of votes had been counted for the Democratic candidate for States Attorney, which in fact had been cast for his Socialist and Republican opponents. The recount showed an extensive marking and alteration in favor of the Democratic opponent after the close of the polls on election day. In several precincts in each of a dozen wards alterations in the ballots of from ten to more than one hundred votes were made.[51]

In the contest for District Attorney in 1925 in Philadelphia, the Republican candidate, Mr. Patterson, was seriously ill on election day. At a meeting of the Republican City Committee it was decided approximately three and a half hours before the polls closed that on account of the improbability of Mr. Patterson's recovery the vote should be shifted to Mr. Shoyer. Stickers bearing Shoyer's name were sent out to nearly all the polling places to be used by voters who wished to place the stickers over Mr. Patterson's name.

In the three and a half hours, approximately, remaining until the polls closed Shoyer received 123,616 votes. Mr. Patterson received 167,526 votes from the balloting for the day which had been in process approximately eight and a half hours before it was decided to send out the Shoyer stickers. A better idea can

[50] Laws of Pennsylvania, 1920, Section 9898.

[51] Prosecution of Election Frauds in Cook County, Illinois, *National Municipal Review*, Volume III, p. 153, 1914.

be had of the astonishing results accomplished for Mr. Shoyer in the three and a half hours by considering the vote in some of the wards:

Ward	Patterson	Shoyer
1	3264	4443
2	2879	3604
3	1375	2294
4	1699	2265
5	1680	1228
7	3198	3571
9	292	479
10	1617	1884
11	745	800
12	1174	2121
13	1177	3567
14	1579	2139
16	958	1143
17	1133	1392
18	2153	2355
19	4137	4419
20	4665	4989

In contrast, the vote in 2 wards, the 22d and 23d, considered as independent wards was:

22d: Patterson, 8856; Shoyer, 3881
23d: Patterson, 4506; Shoyer, 589

A better idea, still, of the miracle which was performed, can be gained by considering the vote in the divisions. In the thirteenth ward where Shoyer's gain over Patterson was greatest the vote by divisions was as follows:

Division	Patterson	Shoyer
1	92	41
2	70	283
3	106	99
4	51	257
5	31	140
6	44	230
7	23	124
8	42	194
9	53	131
10	52	152
11	100	207
12	30	245
13	60	335
14	41	93
15	37	161
16	61	151
17	78	81
18	55	241
19	53	133
20	35	151
21	53	93

It is too much to believe that the above results could fairly be accomplished. It is incredible that in the thirteenth division, for instance, Patterson would have received only 60 votes during the 8½ hours of balloting before it was decided to shift the vote to Shoyer and that Shoyer in the remaining 3½ hours should poll a vote of 335. Such an accomplishment means that Patterson received a vote of seven per hour until it was decided to give the vote to Shoyer and Shoyer received a vote of 95 per hour thereafter. Such incredible accomplishments were performed in a great many divisions of the city. One is forced to form the conclusions that the stickers were placed upon the ballot after the opening of the ballot boxes to count the votes, or that returns were made regardless of the vote indicated on the ballots.

In New York State the investigation of the Chandler-Bloom contest after the special election of January 30, 1923, in the 19th Congressional District by a Congressional investigating committee, as revealed by the majority report, stated that some districts had been so tainted with fraud that the truth was not deducible and that the entire returns should have been rejected.[52]

The Committee of Seventy-Six after studying the election situation in Pennsylvania, reported that "it is known by examination of the registry lists and by the inspection of the contents of ballot boxes, opened in the face of great difficulties imposed by the processes of the law, that ballots cast for candidates opposed by the beneficiaries of the conspiracy have been invalidated by the unlawful and secret addition of contradictory marks thereto."[53]

It is obvious what may be done in tampering with the votes in precincts where a one-party situation exists among election officers, watchers, and voters. In such divisions there is nothing to prevent tampering with the votes.

The invention of the voting machine was an outcome of corrupt counting methods existing in cities. It is reported that Mr. John Rhines of St. Paul, Minnesota, disgusted with corrupt counting methods and with the vicious government of machine politicians determined to invent a mechanical device which should do something towards effecting an improvement. A machine was

[52] T. David Zukerman, *National Municipal Review*, April, 1925.
[53] Report of the Committee of Seventy-Six, 1926.

invented and bills introduced in the legislatures of Michigan and Minnesota in the session of 1889.[54]

And also whether or not the ballots are remarked a false return of the votes may be made. The returns may not truly state the vote on the ballots. It may more accurately reflect that desired by the division leader or the boss of the city.

It was shown in a previous chapter[55] that information was given the Senate Investigating Committee showing that in Allegheny County, Pennsylvania, the system has prevailed for a good many years whereby the returns from a large number of districts are held back until it can be seen from the returns coming in how many votes will be needed and the remaining returns are adjusted accordingly. Mr. Pinchot, in his farewell address, as Governor of Pennsylvania, to the Legislature asserted that his administration "would never have come into office except for an error of judgment on the part of the Philadelphia gang as to how many votes they had to steal to win."[56] He pointed out further that in less than three hours after the polls closed at the 1922 primary the votes of the Vare-controlled river wards had been written up, tabulated, painted on transparencies, and the transparencies were in procession around City Hall. "Obviously," he says, "they could not have been counted."[57]

Shortly before his death Mr. Tweed of New York was examined by a special committee of the Board of Aldermen of the City of New York upon various matters relating to city government. He was asked some questions regarding elections and his answers were as follows:

Question: "Now Mr. Tweed, when you were in office did the ring control the elections in this city?"

Answer: "They did, absolutely."

Question: "How did you control the election?"

Answer: "Well, each ward had a representative man who could control matters in his own ward, and whom the various members of the General Committee were to look to for advice how to control elections."

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[54] New York *Nation*, April 18, 1889.
[55] *Supra*, p. 52.
[56] Message of Governor Pinchot to the Legis., 1927, p. L.
[57] *Ibid.*, p. L.

Question: "What were they to do in case you wanted one man elected over another?"

Answer: "Count the ballots in bulk, or without counting them announce the result in bulk, or change from one to the other as the case may be."

Question: "Then these elections were really no elections at all?"

Answer: "The ballots made no result. The counters made the result."

Again he was asked if he ever gave any directions in any ward to falsify the results, and he frankly replied that he had in every ward in the city.[58]

It was reported by the Committee of Seventy-Six "that votes actually and legally cast for candidates whose defeat is desired are deliberately disregarded and nullified in the computation of the election returns." "It has been demonstrated," the report goes, "that the election returns are falsified by adding to the votes actually and legally cast for candidates favored by the heads of the conspiracy votes not cast at all, or cast for their opponents." And, furthermore, "that the election returns from some divisions have not been counted at all but estimated."[59]

Especially are the opportunities for such falsification propitious where difficult methods of opening the ballot boxes prevail. An advantage appears here with the voting machine. The number of votes is recorded, it is scrutinized by members of more than one party, and is publicly announced. The returns would have to be the same. If they are not the same it is a simple matter to reread the numbers on the counters.

Another advantage of the voting machine lies in the much simpler method of recanvass which it makes possible. A recanvass consists simply of rereading the numbers on the counters.

Still another advantage lies in the fact that votes will not be voided as is done where ballots are marked improperly. Where ballots are used the vote may be void for several reasons, marks beside the wrong spaces, outside the proper enclosure, beside more names than offices to be filled, and so on.

[58] J. I. Davenport, New York Election Frauds and their Prevention, pp. 274–5.

[59] Report of the Committee of Seventy-Six, 1926.

"The number of spoiled ballots at an American city election," says Munro, "sometimes amounts to three to four per cent of the total."[60] In the election of 1914 in New York City, there were 23,831 blank, void and defective ballots; for Lieutenant Governor, 56,163; for Secretary of State, 57,275.[61]

Besides, a great deal of litigation over disputed ballots will be avoided. There would no longer be the opportunity to throw out ballots which were technically marked correctly but which were not desired because not marked according to the wish of the reader. Such a practice is easily possible where one-party election boards exist.

There is only one possible method of voiding the vote with the machine, and that is to cast an irregular ballot, that is, to use the means provided for independent voting for a nominated candidate for whom provision has already been made on the machine.

In New York the Board of Canvassers, whenever a discrepancy occurs, has authority to summon the inspectors of election and in the presence of the Board read again the numbers on the counters. The County Chairman of each party is notified and may have a representative present to witness the recanvass. With such an easy method of recanvass, the election officers would feel compelled to read the vote correctly and send in accurate returns.

The magnitude of the task of making a recanvass of the votes where ballots are used was shown in New York before voting machines had been put in use in the Hearst-McClellan contest for Mayor. The judges were confronted with the task of examining 600,000 ballots,[62] amounting to a central count of the vote which has not been provided in large cities because of the immensity of the undertaking. Such a recanvass becomes expensive and only irregularities on a large scale will induce such an undertaking. Mr. McGovern testified to the Senate Committee that the greatest obstacle confronted by Mr. Beidleman who wished to contest the returns from many districts in Allegheny County was the tremendous cost involved, estimated to be between $75,000 and $100,000.[63]

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[60] Munro, W. B., Government of American Cities, p. 192.
[61] Brooks, R. C., Political Parties and Electoral Problems, p. 394.
[62] The Voting Machine, Political Research Bureau, N. Y., p. 53.
[63] Hearings of the Senate Investigating Committee, p. 135.

The question of opening ballot boxes would be done away with. Provisions for recanvass would be the substitute for opening the ballot boxes. It could be provided that the Canvassing Board or some other authority inspect a certain percentage of the machines after each election to see that the counters had been read accurately. The arguments of too great expense and too much time urged against the proposal that a fixed percentage of ballot boxes be opened after each election could not be urged against recanvassing the votes on election machines.

Where a one-party situation exists in the precinct among election officers, watchers and voters, the use of voting machines as the use of the ballot, does not work properly. As was seen in the last chapter, where such a one-party situation prevails a vote may be registered on the machine for false registrants or for the "stay-at-homes," in making returns the votes registered on the counters may be read incorrectly, or false returns may be sent to the Canvassing Board. But because the voting machine would not work properly in such situations is no argument against the machine. Even in such situations the machine would still possess the distinct advantages of preventing tampering with the ballots and of admitting an easy and inexpensive method of recanvass.

CHAPTER V

Conclusions and Recommendations

In attempting to improve an election system, it is exceedingly important to keep in mind the conditions under which that system must operate. Systems which operate well in sparsely populated regions may break down all around in a region with a dense population. And similarly systems which are found necessary in a densely populated region may be unnecessary and involve a burdensome expense in the sparsely populated region.

Furthermore, the political complexion of the region must be taken into consideration. Systems may operate successfully in a region where the voters are somewhat evenly divided politically, which may give very undesirable results in a community predominately one party.

An again the character of the voters cannot be overlooked. Districts with a population subject to domination by political bosses, where the voters will cast their ballots toward the source from which favors come, need systems which would be unnecessary in communities of independent thought and action.

Because the conditions under which the election system operates are so important in determining the success or failure of the system, the experiences of other states with a given election system cannot be taken as conclusive in proving the merit or demerit of the system.

Furthermore, in considering the features of an election system it must be remembered that the election process is composed of a series of steps and the failure of one feature may be due to the failure of another. Consequently, again, in considering the success or failure of a given feature in other states a clear idea must be had of the whole election system in the states concerned.

It has been found, in states of dense population especially, that the method of statutory control with little or no administrative control over essential functions was not productive of good results. Consequently a great deal of centralization has taken place with

respect to many of the functions and local officials are subject to a great deal of supervision in performing the functions, or the duties have been taken from their hands entirely.

There can be no doubt that the election function is a most essential one. However, little effort has been made, even in the states of dense population, to gain administrative control over the election system. Election administration for the most part among the states remains decentralized, in Pennsylvania it has been seen, to an extreme degree.

The failure of the states to place emphasis upon election law administration equal to that placed upon other essential functions, such as health or welfare, for instance, is notable. In general the failure has perhaps been due to the widespread conception of elections which places upon the parties the functions of maintaining supervision, rather than asserting that party activity and responsibility must cease at the polling place, and thereupon the state take over the function of maintaining impartial supervision.

Particular cases can be found where greater supervision of election laws has not been brought about because the dominant political party which controls the legislature finds the prevailing system advantageous to its interests.[1]

With the establishment of the registration commissions appointed by the Governor in the first- and second-class cities of Pennsylvania, some centralization of supervision over that phase of elections was brought about. But as far as the conduct of elections and making of returns are concerned the system is entirely decentralized.

The need for greater supervision in the conduct of elections and making of returns has time and again been demonstrated and some unsuccessful attempts have been made to bring about a greater measure. The attempts which have been made, however, have not conceived the process as a whole and have not realized that improvement in one phase of the process may avail

[1] *The Public Ledger* reported Governor Fisher, when told that Mr. McCormick in his address to the Elections Committee in the House of Representatives at Harrisburg had said he would like to hear from the Governor his reasons for compromising on election bills, as stating that "if Mr. McCormick had studied the Elections Committee he would have understood the reasons why it was necessary to compromise." *Public Ledger*, Philadelphia, March 30, 1927.

little or nothing if a defect exists in another part of the system. Many of the features of the present election system were adopted without a clear idea of their relation to other parts of the system. Recently Governor Fisher, in recommending the appointment of a commission to study the election laws, expressed the lack of unity in the system by asserting that the election laws have been passed piece-meal and constitute more or less of a hodge-podge.[2]

If the precinct officials were capable, trustworthy officers the chief element in securing fair elections would be supplied. If such officials were not capable and trustworthy then most of the attempted improvements would be of no avail. Therefore, the starting point in attempting to improve an election system is the strengthening of the precinct election board.

The elective system of securing precinct election officers has long been outgrown in Pennsylvania, and should be abandoned in favor of the appointive system. Because there are many one-party election districts and districts in which capable, trustworthy officers cannot be secured the appointing power should not be restricted by the requirement that appointees be selected from the district.

And similarly, because there are many practically one-party districts, the bipartisanship feature cannot be relied upon as a method of supervision. Instead of putting forth the energy to secure a bipartisan board the energy would be more wisely utilized in attempts to secure a board of capable, trustworthy persons without relying upon recommendations of party managers.

The recommendation is made that voting machines be adopted and consequently the number of precinct election officers would be reduced. Not more than three officials would be necessary in the polling place. The usual practice where the board has been reduced to three members through the adoption of the voting machine is that all the members are appointive, one as judge, or chairman, and two inspectors. It is believed that better results could be secured at the polling places in the large cities of Pennsylvania if one appointed official was placed in charge of the polling place, and made responsible for the conduct of the election

[2] *Philadelphia Record,* March 23, 1927.

and return of the vote. Authority should be given that official to appoint not more than two clerks to assist, who should in every way be subordinate to the official in charge.

The recommendation that one appointed official be in charge of the polling place with power to appoint two clerks needs further explanation because it is a method which has not been tested by experience. Such a recommendation is made in order to simplify the appointing function of the Election Commissioner. Especially is there a need for such simplification when the conditions in many districts in Pennsylvania cities are kept in mind.

The smaller number of appointments required under the one-officer plan would aid in breaking away from reliance upon party recommendations. Because of the one-party nature of so many election districts in Pennsylvania cities, freedom from party recommendations must be had. At the same time it would make selection of capable persons a less difficult problem.

The question in such a system arises upon the appointment of the two clerks by the election officer in charge. Where the voting machine is used the duty of the clerks would be to take charge of the poll books. One of the clerks could also operate the rope which releases the machine for operation. The election officer in charge would be free to supervise the activities of the clerks and the polling place in general, also to give needed assistance to voters. There is no good reason why a competent, trustworthy election officer could not supervise the activities at the polling place in such a manner that the duties would be performed and the polls conducted as he wishes. The election officer in charge under the supervision of the watchers would read the vote and make the returns. The voting machine makes the duties of the election officers at the polling place almost entirely ministerial.

Because the election officer in charge can effectively supervise the conduct of elections and making of returns, the type of clerks selected becomes of less importance. With substantial compensation provided it would not be difficult for the election officer in charge to obtain two clerks to give the needed assistance.

All emphasis would be placed upon the selection of the election officer in charge of the polling place. It would be impressed upon the election officer that he is fully responsible for

conditions at the polling place and should any irregularities occur he would be held directly accountable.

The Board, thus constituted, should be given the power to conduct all elections and have charge of registration. The problem of the appointing authority in securing competent appointees would be simplified. Responsibility for the whole process would be direct. And the knowledge acquired by the officer in charge at the time of registration could be carried over to the election. There is no defense from the standpoint of efficiency for the two-board system.

Compensation should be provided sufficient to attract persons who will make competent, reliable, election officers. With adequate compensation persons could be secured for election officials who would serve year after year, having priority in appointment as long as their work was satisfactory. With sufficient compensation, and work made lighter and the day shortened by using the machine, it would be possible to secure competent persons who would go from one part of the city to another to take charge of the polls. In time the appointing power by putting forth the effort could build up a list of persons from whom competent, reliable election officers could be secured. And the experiences in some places, where a real attempt has been made to secure competent election officials, indicate that many competent persons will serve as election officers from a sense of civic duty, and interest in fair elections.

It is possible that in the search for better and better methods of selecting election officers use will be made of civil service methods, but, before civil service can be called in to aid, examinations which recognize qualities other than clerical ability will have to be devised. The greatest promises at present come from selection by a personal examination by the appointing board and by co-operation with citizens' organizations, schools, business establishments, and the like.

The above recommendations respecting precinct officers throw a lot of responsibility upon the appointing authority, and consequently the character of that appointing authority needs a great deal of consideration.

In view of the one-party character of many cities in Pennsyl-

vania, an appointive election commission promises the best results. In order to concentrate responsibility, to prevent duplication of work, to make records readily accessible, and to promote economy all the powers and duties concerning election should be concentrated under the control of one board. All the powers and duties now residing in the County Commissioners' office, or in the Court of Common Pleas should be transferred to the appointive board. Similarly should all powers and duties now held by the Registration Commissions be transferred to the Board. All election powers and duties should be concentrated under this single Board of Election Commissioners.

The difficult problem arises in the appointment of the Board of Election Commissioners. Especially is that problem difficult in cities in Pennsylvania which are nearly one-party regions and subject to control by political bosses.

A method of appointment by local authorities promises no better results than the present elective system in securing county commissioners. The Board of Election Commissioners would be controlled by the dominant political organization and satisfactory results could not be expected. There is one method of appointment by local authorities, that is, by a judge or judges of the County Courts, which holds some promise, but it has to be kept in mind that the judges are elective and the organization controlling the vote of the city may determine the election of the judges. There would be a much greater incentive to control the election of the judges than at present and the chances of succeeding are too great to place faith in such a method of appointment. In Chicago where such a system has been given a trial satisfactory results have not been obtained. Neither would an ex-officio board consisting of the City Clerk, Recorder, and President of the Council which has given success in Detroit offer a solution of the appointment problem in cities of Pennsylvania. Nor could any faith be placed in the appointment of the Board by the City Council as in New York City.

The method which promises the best results is the method now used for appointing the Registration Commissions in first- and second-class cities, namely, appointment by the governor.

The method of appointment by the governor is not without its

weak points. If the governor is allied with the political organizations in the cities, there would be danger that the organizations would control the appointments.

However, it has been demonstrated within the last four years by the work of the Registration Commissions that where there is a sincere attempt to make good appointments to such Boards, good results can be expected. Although the activities of the Registration Commissions were strictly hampered by limited funds and were working against organization opposition at every point, still a great deal of valuable work was done.

With all the election functions centered under one Board and with appointment power given to the governor, his responsibility for the kind of elections that result would be definite. Those interested in maintaining good elections would know where to direct their efforts. When bad results appeared they would know where to center their attacks. Under present conditions when undesirable results occur, those protesting are at a loss to know where to go to seek remedies. The only action which is taken arises in cases of irregularities which are so flagrant that court cases can be made of them, or the irregularities are so widespread that a contest can be entered. Most of the infractions of the law go unheeded because of the lack of an authority with power to remedy conditions to which complaints can be made. For an array of cases of inefficiency which are not serious enough to constitute court cases there is no authority to which to appeal to urge improvements.

The composition of the Election Commission becomes an important consideration. In those Pennsylvania cities which are nearly one party it is not worth the effort to attempt to secure bipartisan election commissions. There is great probability that the Commission would be controlled by the dominant political party. Even though a sincere attempt was made to place members of both parties on the Commission there would be too great likelihood that the members of the minority party, seeing that their party was greatly in the minority in the city would be tempted to make the best deals possible with the majority members. The Election Commissions in Pennsylvania cities should be non-partisan.

The Model Registration System offers optional specifications for the composition of the Election Commission, a single commissioner or one, three, four or five members. The chief reason for maintaining a four- or five-member commission is taken away when the Commission is made non-partisan. The specifications providing that the election office should be under the control of a single election commissioner or a commission of three members offers the best solution when the conditions under which the system must operate are kept in mind. The single commissioner or the commission of three should be appointed for a term or terms of four years with good full-time salary.

There are dangers in such a system. It is conceivable that the single commissioner or commission of three could conduct the office entirely for the benefit of one party. But responsibility is definitely fixed, and the commissioner or commissioners showing inefficiency in office or abusing powers would be the object of unfavorable opinion from many sources. Such unfavorable opinion would also reach the governor. Such a system would greatly increase the effectiveness of independent organizations, such as the Committee of Seventy, the League of Women Voters, and others interested in fair and efficient elections, to exert influence in that direction. There is firm belief that sufficient opinion favoring fair and efficient elections exists and is well enough organized to make itself felt if election machinery is so arranged that the opportunity for expression is given.

The appointive method outlined above is not presented as the method which would be best in all places. In Detroit good results have been secured with a board composed of elective officers. Where strong opposing parties exist it is possible that with a board of three members a combination of the appointive and elective methods, with one member chosen by each party and the chairman appointed by the governor, would produce good results.

But in many Pennsylvania cities where vigorous opposing parties do not exist the appointive method outlined above appears to offer the best solution.

The recommendation made in the Model Registration System that the office force be selected without regard to party affiliation or nominations by party organizations, and placed under the civil

service system of the city, where a civil service system exists, would insure greater fairness and efficiency in performing the work of the office. It would, as the Model Registration System declares, prevent the election office from becoming a dumping ground for incompetent political "heelers."[3]

The state election bureau should be immediately under the control of the governor and its powers sufficiently increased to aid the governor in supervising the administration of the election laws.

In order to keep in close touch with actual conditions, and to secure information showing how the election commissioners are performing their duties, provision should be made for the employment of deputies by the governor wherever deemed necessary. There can be no doubt that a lot of good work was done by the State Superintendent of Elections and his deputies in New York, especially when the system was confined to the metropolitan district prior to [illegible].

There are districts in cities which are completely under the dominat[illegible] of political organizations and until election officers can be secured for those districts who can be trusted to conduct the elections fairly and make an accurate return of the votes, good results could be accomplished by having deputies keep a close watch on such districts. In such districts there is need of some supervision from without the district which is not in any way bound up with the dominated situation existing there.

Returning to the election district everything possible should be done to aid the election officers. The first outstanding change in that direction is to give up the use of the ballots in cities in favor of the voting machine. The work at the polling place would be greatly diminished and simplified, and opportunities for irregularities would be greatly decreased. It has not been by chance that voting machines have spread to more than fifty cities and more than a thousand towns and villages in the neighboring state, New York, where population conditions are similar to those in

[3] Model Registration System, pp. 65 and 66. Oakley E. Distin asserts that there is no question but that the civil service system should apply for permanent employees, and part-time employees who work for several months.

Pennsylvania. It is a striking fact that voting machines are used on such a wide scale in New York State and have not even been given a trial in Pennsylvania. The backwardness or unwillingness with respect to the adoption of voting machines reflects the general attitude of a large share of the legislature toward improvements in general in the election system. Some of the recommendations set forth here may at first glance appear unreasonable because they propose changes which are far in advance of existing features, but they are not in advance of systems in other places where sincere attempts have been made to keep the election system abreast with changing conditions.

It is not the attempt here to recommend the changes which the legislature, as constituted at present, would be likely to adopt. To be so limited would be to be prevented from outlining a system of supervision with full regard for fairness and efficiency. The attempt here is to recommend changes which appear necessary in applying the experiences of other localities and the recommendations of students of elections to the conditions found in Pennsylvania.

The precinct election officers having previously conducted the registration would find the knowledge gained on registration day valuable in aiding to determine the applicant's right to vote. As a further aid the signature of the voter should be required before admittance to the machine, to be compared with that made on registration day. In doubtful cases in addition to the signature, a challenge affidavit should be required and note that the voter was challenged should be entered in the registry books.

Assistance should be allowed to those unable to read the names on the machine or physically disabled. Such assistance should be given by a system similar to that in practice in New York State. The voter desiring assistance should be required to state the need of assistance at the time of registration, assistance to be given only to such on election day, with a provision to take care of those disabled between registration and election day. Such assistance should be given by the election officer in charge of the polling place, again centering responsibility for results in that officer. It should be required that entry of the fact be made in the poll books where assistance is given.

Upon the close of the polls the counters showing the vote should be read and the vote entered on the return sheets by the election officer in charge under the supervision of a watcher of each party.

One watcher should be allowed for each party at the general election, and one for each candidate at the primary, who should be allowed to be stationed outside the guard rail in the polling place during the casting of the ballots and return of the votes. Challenges made by watchers should be treated in the same manner as challenges made by the election officer.

The inoperative system of supervision by means of overseers should be taken out of the constitution. Deputies representing the governor should be without restriction in the polling places, not even subject to restriction by the election officers in charge. They should have access to all records including the examination of the voting machine at the beginning and end of the voting.

The registry books and returns should be delivered to the office of the Election Commissioners of the City or County where the vote would be computed. Each party at the general election, and each candidate at the primary, should be allowed to have a representative present during the computation. During the computation the Election Commissioner should have authority to call in election officers to explain apparent irregularities or to order them to reread the vote as recorded on the machine under proper supervision. It would be productive of good results to give the Election Commissioner authority to read the votes on a certain percentage of the machines after each election, and compare his readings with those returned by the election officers.

An easy and inexpensive method of bringing a contest should be allowed since a contest would involve simply rereading the votes recorded on the voting machines.

The outstanding aim and purpose in the above recommendations is to bring about greater centralization in the administration of the election laws and definitely link up responsibility for the kind of elections secured with the governor. The state should have not only statutory control but also a great degree of administrative control. It is not contended here that a high degree of centralization in the administration of election laws is desirable in all cases. Such a general rule, it is felt, can not be drawn because

conditions under which elections have to be conducted vary so widely. The recommendation made here for greater centralization refers to election administration in many Pennsylvania cities, notably Philadelphia and Pittsburgh which are primarily one-party cities. It is possible that in other cities with different conditions much greater authority could be left in the hands of local authorities. There needs to be the same regard for the enforcement of election laws as for laws relating to other essential functions. Were it not for independent organizations, election supervision in some Pennsylvania cities would be practically at a standstill. The existence of such organizations is desirable and valuable, but it is not a sound method of administration to entrust the enforcement of law on an important subject to such an agency. The state has no control over such an agency and therefore has no control over the manner in which the law is enforced. Such a method also goes upon the assumption that a strong, well-financed, independent organization will exist, which may be a false assumption.

Another aim is to deliver the election machinery from party control. A step in that direction was taken when the states took over the responsibility for supplying ballots but there is yet a long way to go. Another aim closely connected with this is to build up the conception among voters that the polling place is an impartial tribunal to decide a contest which has been waged by the parties; the conception on the part of the parties that their activities must not enter the polling place. To allow a party to control the election machinery is parallel to allowing one team in a football game to choose the referee. The first step in building up that conception of impartiality is to pry the parties loose from their control over election officials.

If the present disorganized system is allowed to continue in Pennsylvania some good results could be obtained by adopting voting machines, by the signature requirement in aiding identification, by adopting the restricted method of giving assistance, and by providing a check to determine that the vote has been read and returned properly, and by allowing an easy and inexpensive method of contest. But in one-party districts it is obvious that the machine may be operated illegally, that no comparison of

signatures may be made, and that assistance may be allowed freely regardless of whether the need for such was stated at the time of registration. However, even in such districts the machine would prevent spoiled ballots, would take away the task of interpreting markings on ballots and the opportunities to misread the markings, would furnish a permanent record of the vote, thus decreasing the opportunity to make false returns, would make supervision by watchers of the parties less difficult, especially with regard to returns, would decrease the number of polling places and thus decrease the task of the parties in supplying watchers, would concentrate responsibility in not more than three officers instead of five, besides the economies that would result.

If the use of ballots is to continue some good results would follow from the signature requirement before the ballot is received, from keeping a record of the ballot to prevent the "chain" system of voting, and from the restricted form of assistance. Furthermore, a mandatory method of opening ballot boxes should be provided without requiring petitioners to be voters of the election district, a method should be adopted to require the courts to open a fixed percentage of the boxes after each election, and an easier and less expensive method of contest should be provided.

When it is clearly apparent, as it is, that Pennsylvania with a population ranking second among the states lags far behind in placing safeguards around the conduct of elections and making of returns, it can only be concluded that there has been a woeful lack of insight on the part of the legislature into election problems, and lack of information of improvements going on in other states, or that there has been organized effort to prevent improvements in the election system.

When it is known that time and again proposed bills establishing features similar to those which have proven valuable in other states and which have been supported in Pennsylvania by those earnestly interested in improving the election system, have been rejected by the legislature, the latter of the aforementioned conclusions seems to be the correct one.

The outstanding lack of experimentation also points to the same conclusion. If there existed sincere interest in improving elections, new methods would be given trials, features proving suc-

cessful in other states would be introduced to determine whether similar successful results would obtain under the conditions in Pennsylvania, and methods suggested by students of elections, who know the needs of conditions in the state, would be put to the test. Instead, there has been very little change, practically no experimentation with methods which promised to give successful results. Study of the election system by legislative commissions appointed to delay action on undesirable bills is not likely to bring forth frank, comprehensive recommendations.

The usual retort to a suggested improvement, that the people are responsible for the system as it is, overstates the situation. The political organizations which profit most from the system as it exists are able to use the system to aid in controlling elections of legislators upon whom in turn dependence can be placed to maintain the prevailing system. There seems to be a vicious circle and, under the present system, there is to a very considerable extent. With present methods of voting and making returns in many divisions the true state of opinion is not obtained, and many stay away from the polls with the feeling that their vote would not be counted anyway.

Improvement of the machinery of elections is of primary concern. When there can be confidence that the returns from the polling place truly express the wishes of the voters, then can attention be turned to a consideration of the voters. Non-voting studies, examination of motives for voting, and similar investigations can be made, and political education can go ahead.

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